

**Arinaitwe v Uganda (Criminal
Miscellaneous Application 173 of 2024)
[2024] UGHCCRD 51 (6 June 2024)**
[2024] UGHCCRD 51

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He states that he was charged with the offence of Aggravated Defilement contrary to Sections 129 (3) and (4) of the Penal Code Act. That he was remanded on the

11th of May 2022. That he has been in detention on remand without committal. On this basis the applicant seeks a mandatory release on bail.

It has however been established from the court case management information system that the applicant was committed to the High Court and his High Court Session Case No. 525 of 2023.

Determination

This application is made on the premise that the applicant qualifies for mandatory bail. Because the applicant was charged with the offence of Aggravated Defilement contrary to Sections 129 (3) and (4) of The PCA, which is only triable by the High Court, then the relevant provision of the Constitution is Article 23 (6) (c) which states that,

Where a person is arrested in respect of a criminal offence in the case of an offence triable only by the High Court, if that person has been remanded in custody for one hundred and eighty days before the case is committed to the High Court, that person shall be released on bail on such conditions as the court considers reasonable.

Clause 10 (1) of The Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions 2022 reproduces the above article of the constitution.

This Court notes that the provisions are couched in mandatory terms.

The procedural provision is Clause 10 (3) of the above Guidelines which stipulates,

For the avoidance of doubt, mandatory release on bail for offences triable by the High Court under Article 23 (6) (c) of the Constitution shall be granted only by the High Court.

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I have perused the court record and checked with the court case database, and established that indeed, the applicant has been committed to the high court for his trial. The matter was entered in the court database as High Court Session Case No. 525 of 2023.

For release under Article 23 (6) (c) of the Constitution to be effected, the applicant should not have been committed to the High Court for trial. In view of the fact that he has now been committed, then he does not qualify for mandatory release on bail.

For that reason, this application must fail and is dismissed.

Michael Elubu Judge 06.06.2024

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