

UGANDA / JUDGMENT

Kavuma v Uganda (Miscellaneous Application 204 of 2023) [2024] UGHCCRD 36 (29 April 2024)

[2024] UGHCCRD 36

COURT

HC: Criminal Division (Uganda)

BEFORE

Muwata, J

CASE / FILE NUMBER

Miscellaneous Application 204 of 2023

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CRIMINAL DIVISION

CRIMINAL MISC.204 OF 2023

KAVUMA HASSAN APPLICANT

VERSUS

UGANDA RESPONDENT

RULING

BEFORE HON: JUSTICE ISAAC MUWATA

The applicant brought this application seeking to be released on bail pending the hearing of his case. The grounds of the application are contained in the affidavit of the applicant and are briefly that;

The applicant was charged with the offence of aggravated robbery and remanded to Luzira Prison. That since then the applicant has never been committed for trial in the High Court. The applicant further contends that he has a fixed place of abode, has substantial sureties and is the bread winner of a family of three. It is also contended by the applicant that he is innocent till proved guilty and that he has no capacity to interfere with any potential witnesses.

The respondent opposed the application on grounds that the applicant has not disclosed any exceptional circumstances to warrant his release on bail. It was also argued by the prosecution that the applicant is not law abiding and has been charged with a very serious offence that attracts a maximum sentence of death. They also contended that the sureties presented by the applicant are not substantial.

Counsel Elepu Joachim appeared for the applicant while SSA Amerit Timothy appeared for the respondent. Both parties filed their written submissions which I have considered.

The grant of bail is at the discretion of court. An accused person has the right to apply to be released on bail, and the court may grant such person bail on such terms it considers reasonable. This is in line with Article 23(6)(a) of the Constitution, the leading case of **Uganda V Rtd. Col. Kiiza Besigye Constitutional Reference No.20 of 2005**

The applicant in this case contends that he has been on remand for more than 180 days without being committed for trial in the High Court. It is submitted by counsel for the applicant that the accused person qualifies to be released on mandatory bail.

Mandatory bail is provided for in Rule 10(1) of the Bail Guideline. It provides;

“Where an offence is 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.”

The applicant is charged with 8 counts of the offence of aggravated robbery, the remand form indicates that the applicant was first remanded on the 26th July 2023. From that day more than 180 days have passed without the applicant being committed. The prosecution has shown no evidence that the applicant has already been committed. In such circumstances the court should exercise its discretion in favor of the applicant and only impose appropriate terms to ensure that the applicant returns for his trial.

In the absence of any indication from the prosecution that the applicant has been committed for trial prior to clocking the 180 days on remand, I find that he qualifies to be released on mandatory bail. Accordingly, he shall be released on the following terms.

1. **He shall deposit a cash bail of shs. 1,000,000/=.**
2. **Each of the sureties presented in court shall execute a non-cash bond of shs. 5,000,000/=.**
3. **The applicant shall continue reporting to the Nakawa Chief Magistrates Court where the matter is still being mentioned.**

I so order

JUDGE

29/04/2024

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