

**IN THE HIGH COURT OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

MISC. CRIMINAL APPLICATION NO. 54 OF 2018

In the matter of an application for
APPLICATION FOR BAIL

And

In the matter of PI Criminal Case No. 11 of 2018

In the District Court of DODOMA District at DODOMA

1. JOHN S/O STANLEY @ JULIASI.....	}	APPLICANT
2. NASSON S/O NDALU.....		
3. NAMES NOELLY @ NDASA.....		

VERSUS

THE REPUBLICRESPONDENT

RULING

24/01/2019 & 28/01/2019

KITUSI, J.

This is an application for bail by John Stanley @ Julius, Nasson Ndaru and Names Noelly @ Ndaga, hereafter the first, second and third applicants respectively. The applicants are being charged with Acts Intended to cause Grievous Harm Contrary to section 222 (a) of the Penal Code, before the District Court of Dodoma. The application preferred under section 148

(1) (2) and (3) of the Criminal Procedure Act (CPA) has been supported by affidavits of the applicants.

The respondent Republic filed a counter affidavit of Rachael Cosmas Tulli, a State Attorney, to resist the application. At the hearing the applicants were represented by Mr Mselingwa, learned advocate, while Ms Taji, learned State Attorney argued the application on behalf of the respondent Republic.

The mainstay of the application according to the affidavits paragraphs 2, 3 and 4, and Mr Mselingwa's submissions in support thereof, is the fact that the offence with which the applicants are being charged is bailable and the applicants are prepared to meet any conditions that may be set by the court.

On the other hand the learned State Attorney submitted, in resistance, that if admitted to bail, the applicants may be a threat to the victim's safety considering the nature of the offence and the manner in which they executed it. The applicants allegedly attacked the victim brutally with machetes, knives and sticks and that admitting them to bail and allowing them to go back to Mkonze area within the area where the victim lives will place the latter in fear of his life.

Secondly, the learned State Attorney submitted that there is a likelihood of the applicants interfering with the investigations if and when released on bail. She prayed that the application be dismissed.

With respect I agree with both Mr Mselingwa for the applicants and Ms Taji learned State Attorney for the respondent Republic that the offence under section 222(a) of the Penal Code, with which the applicants stand charged at the District Court is bailable.

In disposing of this application I need only refer to the provisions of section 148 of the CPA and a mere quick glance at it satisfies me that none of the reasons stated by Ms Taji State Attorney falls under the provisions of sub section (5) of section 148 of the CPA. If I uphold the learned State Attorney's argument that the applicants will be a threat to the alleged victim it will be, as correctly submitted by Mr Mselingwa, the same as presuming the applicants guilty.

Since therefore, the offence is bailable and since the grounds for resisting the application have no legal basis, I grant the application for bail. The applicants shall be admitted to bail on the following conditions;

1. Each applicant to have two reliable sureties.
2. Each applicant with his sureties to sign a bond of Shs 2,000,000/=
3. Each applicant to report to the Regional Crimes Officer every Monday morning.



The assessment and approval of sureties shall be done by the Deputy


I.P. KITUSI
JUDGE
28/01/2019