

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

MISC CRIMINAL APPLICATION NO. 16 OF 2020

In the matter of an application for

BAIL PENDING TRIAL

And

In the matter of Criminal Case No. 1 of 2020

In the District Court of Bahi District at Bahi

1. DAUD MCHIWA MAGALAMILE	}	
2. JENIFER EMILY	} APPLICANTS

VERSUS

THE REPUBLICRESPONDENT

27/3/2020 & 1/4/2020

RULING

MASAJU, J.

The Applicants, Daudi Mchiwa Magalamile and Jenifer Emily (the 1st and 2nd Applicants respectively) have been jointly and together indicted before the District Court of Bahi in Criminal Case No. 1 of 2020 for

Manslaughter contrary to sections 195 and 198 of the Penal Code, [Cap 16] hence this Chamber Summons Application for bail pending the trial and determination of the case against them. Their Application has been supported by the Affidavits severally sworn by the Applicants themselves. The said Affidavit gives the background and the reasons for the Application. Both the Applicants in the said Affidavits in paragraphs 6 and 7 state, that they have reliable sureties who own immovable and unmovable properties at Chidilo and Mpalanga villages respectively within Bahi District. That they will be available whenever the Court needs them and that they shall abide by all bail conditions that will be set by the Court.

The Respondent Republic did not lodge Counter Affidavit in the Court apparently because she does not contest the Application. That position was made clear to the Court by Ms. Lina Magoma, the learned Senior State Attorney, who appeared for the Republic on the 27th day of March, 2020 when the Application was heard in the Court. The Republic advised, however, that the Court should consider the Applicants' safety in terms of section 48 (5) (b) of the Criminal Procedure Act, [Cap 20] given the short interval of the alleged crime and their being admitted to bail in the event the Application is granted.

The laymen Applicants who appeared in persons adopted their Chamber Summons Application alongside their Affidavits to form part of submissions in support of their Application in the Court as they prayed the Court to grant their Application accordingly. They further submitted that their fellow villagers have been visiting them in remand prison ever since they were remanded and that the situation back home is peaceful,

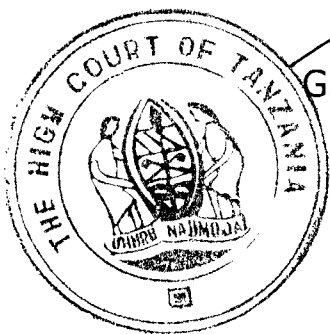
otherwise they couldn't have applied for bail. That, in the event they are admitted to bail and released accordingly, they will know how to take care of themselves against threat, if any, on their lives.

That said, the uncontested Application for bail pending trial and determination of the case against the Applicants is hereby granted accordingly under section 148 (1) of the Criminal Procedure Act, [Cap 20] since the offence is bailable in the absence of sworn and credible evidence that the Applicants' safety will be prejudiced if they are released on bail. The Applicant shall be admitted to bail on the following conditions and terms, thus;

1. That, each Applicant shall have two reliable sureties, Citizens of the United Republic, residents of the local jurisdiction of the Court who shall each execute a bond of TZS 10,000,000/=.
2. That, the Applicants' reliable sureties, if any, and their Identification Documents shall be vetted and approved by the Deputy Registrar, High Court of Tanzania, Dodoma Registry (the Deputy Registrar).
3. That, the Applicants shall surrender their passports and other travel documents, if any, to Dodoma Regional Central Police Station for safe custody pending trial and determination of the criminal case against them.
4. That, the Applicants shall not travel outside the local jurisdiction of the Court without the prior permission by the Deputy Registrar.

5. That, the Applicants shall appear before the District Court of Bahi or before the Court, as the case may be, on such dates and times as shall so be scheduled by either the District Court of Bahi at Bahi or by the Court, as the case may be.
6. That, the Deputy Registrar shall ensure that all bail conditions and terms hereof are met accordingly prior to releasing the Applicant on bail.
7. That, the District Court of Bahi and the Deputy Registrar, as the case may be, shall ensure that the bail conditions and terms hereof are complied with and maintained accordingly even after the Applicants' admission to bail pending the timely trial and determination of the homicide case against the Applicants.

It is hereby so ruled and ordered by the Court this 1st day of April, 2020.



GEORGE M. MASAJU

JUDGE

1/4/2020