

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

SUMBAWANGA DISTRICT REGISTRY

AT SUMBAWANGA.

MISC. CRIMINAL APPLICATION NO. 39 OF 2022

(Originating from PI Case No 3 of 2021, at the District Court of Sumbawanga at Sumbawanga)

OBADIA S/O JOHN@ GARI MOSHU.....APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

20th & 22nd July, 2022

NDUNGURU, J.

This is a ruling on application for bail pending trial in Criminal Session Case No. 21 of 2022 before the High Court Tanzania at Sumbawanga. The applicant has moved this court by way of Chamber summons supported by affidavit duly sworn by the applicant. This application is made under section 148 of Criminal Procedure Act (Cap 20 R.E 2019).

Essentially, the affidavit deponed as herein: that the applicant is charged before the High Court with offence of Accessory after the fact to

murder contrary to section 213 of the Penal Code (Cap 16 R.E 2019) the offence this court can entertain bail.

The applicant further averred that he also ready to abide with bail conditions imposed to them. But of more important, the applicant has stated that the offence he charged with isailable in the eyes of law.

Initially, the respondent/Republic had not objected bail through counter affidavit. When the application was called upon for hearing, the applicant appeared in person unrepresented. On the other hand Ms. Magutta, learned State Attorney represented the respondent/ Republic. In his short submission in support of the application, the applicant prayed the court to grant the application. He promised to attend the court whenever he is required to do so.

In her submission, Ms. Magutta learned State Attorney had no objection to the application. She said the court has jurisdiction to entertain the application and is properly moved. She rather prayed the court to impose conditions which will make the applicant attend his trial. The applicants had nothing substantial to rejoin apart from reiterating his

submission in chief and underscoring the prayers sought in the chamber summons.

From the submission of the parties following positions of the law are not disputed: that, the offence with which the applicant is charged is bailable. This court has jurisdiction to entertain bail application.

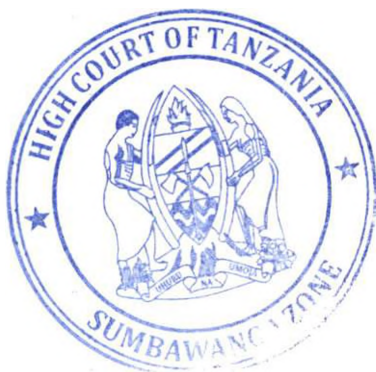
It is also a clear position of our law that, bail is both a statutory and constitutional right for an accused person. The purpose of granting bail to an accused person is to let him enjoy his freedom as long as he shall appear in court for his trial; see **Hassan Othman Hassan @ Hassanoo v. Republic, Criminal Appeal No. 193 of 2014, CAT at Dar es salaam** (unreported). In that stance there is no reasonable ground for denying bail to the applicant in the matter at hand. It is more so considering the fact that, his application is not objected by the respondent/Republic.

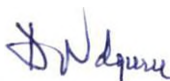
Due to the above reasons, I find that, the applicant is entitled to the prayed bail. I accordingly, grant bail to the applicant under the following conditions;

- a. That, the applicant to have two sureties.

- b. The applicant's sureties must be residents of Rukwa Region.
- c. The sureties must have introduction letters from local Authority. If employer introduction letter should come from employer. They must produce identity cards be it voter's registration card or National identity card. The copy of the card be filed in the court file.
- d. That, each surety will sign a promisory bond of 1,000,000/=
- e. The applicant is restricted from travelling outside Rukwa Region, unless written leave is granted by the Deputy Registrar.
- f. The applicant and the sureties will have to give proper addresses, locations of their place of residence and phone numbers for easy of tracing them when need arises.

The sureties envisaged under the conditions of bail set above shall be approved by the Deputy Registrar of this court. It is so ordered.




D.B. NDUNGURU
JUDGE
22/7/2022