

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA**

(DODOMA DISTRICT REGISTRY)

AT DODOMA

MISC. CRIMINAL APPLICATION NO. 08 OF 2022

**(Originating from Criminal Appeal No. 121/2021 of the High Court
of Tanzania at Dodoma)**

KELVIN MWITA JOSEPH..... APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

20/7/2022 & 10/8/2022

KAGOMBA, J

This is an application for bail pending hearing and determination of Criminal Appeal No. 121 of 2021 before this court filed by Kelvin Mwita Joseph. The application has been preferred under Article 13(6) of the Constitution of the United Republic of Tanzania, 1977 sections 148(1), 148(3) and 368(1)(a)(i) of the Criminal Procedure Act, [Cap 20 R.E 2019] and is supported by an affidavit of Cosmas Kulwa Mataba, the advocate for the applicant.

According to the supporting affidavit, the applicant was arraigned and charged for the offence of unlawfully causing grievous harm contrary to Section 225 of the Penal Code [Cap 16 R.E 2019] in Criminal Case No. 105 of 2021 at the District Court of Dodoma and was convicted and sentenced to serve four years imprisonment. The applicant has appealed to this court against the both conviction and sentence in Criminal Appeal No. 121 of 2021 which is pending before this court.

According to the affidavit, the appeal stands overwhelming chances of success. hence, a prayer to release the applicant on bail pending determination of the appeal. The respondent did not file a counter affidavit.

During hearing, the applicant was represented by Mr. Cosmas Kulwa Mataba, learned advocate, and the respondent was represented by Mr. Geoffrey Mlagala, learned State Attorney.

Mr. Mataba prayed to adopt the affidavit in support of the application. He prayed the court to grant the application stating his belief that the appeal stands good chance of being successful. He argued very briefly that bail is a right of the applicant. Mr. Mlagala did not oppose the application, provided that the applicant will meet the bail conditions to be set by the court.


The court is alive to the fact that the appeal filed by the applicant has been heard and its judgment is set to be pronounced on 31/08/2022. The court has considered that the applicant has a right to be bail pending judgment and that this application has not been opposed. Accordingly, the application is granted.

The applicant is admitted to bail pending judgment on the following conditions;

1. The applicant to have two reliable sureties who reside within Dodoma region. Each surety to present an introduction letter from respective *Mtaa* or *Kitongoji* leader and certified copy of NIDA cards to the Deputy Registrar, High Court Dodoma.
2. Each surety to sign a bond worth TZS 1,000,000/= to the High Court.
3. The applicant to surrender his travelling document or passport (if any) to the Deputy Registrar of the High Court, Dodoma.
4. The applicant shall not travel outside Dodoma Region in the meanwhile.

It is so ordered.




ABDI S. KAGOMBA
JUDGE
10/08/2022