

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DISTRICT REGISTRY

AT TABORA

MISC. CRIMINAL APPLICATION NO. 4 OF 2022

(Originating from Urambo District Court Criminal Case No. 42/2018)

HAJI S/O SHABAN @ SAIDAPPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date: 27/6/2022 & 1/7/2022

BAHATI SALEMA, J.:

The applicant, **Haji s/o Shaban @ Saida** lodged this application under the provisions of Section 361(2) of the Criminal Procedure Act, Cap. 20 [R.E 2019] and Section 14 of the Law of Limitation Act, Cap. 89 [R.E 2019]. It is supported by an affidavit sworn by the applicant.

The affidavit in support of the application reveals that he was arraigned before the District Court of Urambo District at Urambo for the offence of statutory rape, found guilty, convicted, and sentenced to 30 years imprisonment. (Hon. A.E Cholongola, RM) dated 15/2/2019 in Criminal Case No. 92 of 2018.

Dissatisfied, he gave the notice of appeal to the trial court, well within the time required by law.

Due to the length of the custodial sentence imposed on him, he was relocated to Uyui Central Prison at Tabora on 20/3/2019. While at Uyui Central Prison, on 26/6/2019 he received a copy of the judgement when already the time prescribed by the law within which to appeal had lapsed.

That he made several attempts to lodge for extension of time to this court since 2019 without success until on 23/12/2019 when he successfully lodged Misc. Criminal Application No. 7 /2020 which was heard and granted on 13/11/2021.

That on 21/10/2021 , he received a ruling from this court while barely a week had lapsed since he received the Notice of Appeal from the trial court which he was operating beyond the time prescribed by the ruling since he could not register his appeal online without such crucial documents , hence this application.

The applicant is praying for the following orders:

- 1. An application for extension of time within which to lodge both the notice and petition of appeal be allowed*

2. *To extend the time to lodge the notice and petition of appeal, and
or*
3. *Any other order as this honourable court may deem fit and just to
grant in the circumstances of this application.*

When the matter was called for hearing, the applicant was self-represented while Mr. Rwegira Deusdedit, State Attorney for the Republic.

Mr. Rwegira Deusdedit, State Attorney conceded to the application, stating that the reasons adduced were sufficient since the applicant was under the supervision of a prison officer.

Responding, the applicant prayed for this court to adopt his affidavit to form part of his submission.

Having heard both parties the issue for consideration is whether the application has merit.

It is trite law that in an application for an extension of time, the applicant must show a reasonable cause for delay.

In the present case, the applicant demonstrated that he wasted no time in pursuing the right of appeal. Upon perusal of the application and the trial court's records, I noted that immediately after delivery of judgment

and pronouncement of sentence, the applicant registered his notice of intention to appeal. It is on record that the applicant timely applied for copies of the judgment and proceedings, which, unfortunately, were not supplied to him on time.

Having considered both the applicant's affidavit, especially in paragraphs 4, 5, 6, 7, 8 and 9 the concession from the State Attorney, the court finds it suitable to grant the application.

For the aforesaid reasons, the applicant has shown sufficient cause for an extension of time and the application is thus granted. The applicant must file a fresh notice of appeal within 10 days and a petition of appeal within 30 days from the date of this ruling.

Order accordingly.



A handwritten signature in blue ink, appearing to read 'Bahati Salema'.

A. BAHATI SALEMA

JUDGE

01/07/2022

Date: 01/07/2022

Coram: Hon. G. P. Ngaeje, Ag DR

Applicant: Present

Respondent: Melito Ukongoji, State Attorney.

B/C Grace Mkemwa, RMA

Mr. Melito: The matter comes for Ruling. We are ready.

Court: Ruling delivered in presence of the Applicant and Respondent, Republic in the open court.

G.P. NGAEJE

Ag. DEPUTY REGISTRAR

01/07/2022

Court: Right of appeal fully explained.



G.P. NGAEJE

Ag. DEPUTY REGISTRAR

01/07/2022