

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF DAR ES SALAAM)**

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 102 OF 2022

(Arising from Criminal Session Case No. 149 of 2022).

RODRICK ALOYCE MREMA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

22nd, & 26th August, 2022

ISMAIL, J.

The applicant is charged with manslaughter, an offence under the provisions of sections 195 and 198 of the Penal Code, Cap. 16 R.E. 2019. He is incarcerated as he awaits a plea taking session and eventual trial of his case. In the pendency of the trial proceedings, he has instituted the instant application, praying that he be admitted to bail.

The application has been preferred under the provisions of section 148 (1) and (3) of the Criminal Procedure Act, Cap. 20 R.E. 2022 (CPA). It is accompanied by two affidavits. One is sworn by Alexander Kyaruzi, the

applicant's counsel; and Immaculata Mlay, the applicant's spouse. Both of these affidavits contain depositions on which the application is based.

Hearing of the matter saw Mr. Alexander Kyaruzi, learned advocate, appear for the applicant, while the respondent enjoyed the services of Ms. Rachel Mwaipyana, learned State Attorney. Ms. Mwaipyana submitted that she was not opposed to the application, noting that the offence with which the applicant is charged is bailable.

For his part, Mr. Kyaruzi urged the Court to admit the applicant to bail and impose conditions which are lenient. Learned counsel also undertook to ensure that the applicant abides by all conditions as shall be imposed by the Court.

The obvious question that follows the unanimous submissions is whether the application for bail carries some merits.

It is common knowledge that for, offences charged under the Penal Code (supra), grant or otherwise of the bail is a matter that is regulated by the provisions of section 148 of the CPA, and in our case, the relevant provision is sub-section (1) which stipulates as follows:

"Where any person is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court and is prepared at any time while in the custody of that officer or at any stage of the proceedings

before that court to give bail the officer or the court, as the case may be, may, subject to the following provisions of this section, admit that person to bail; save that the officer or the court may, instead of taking bail from that person, release him on his executing a bond with or without sureties for his appearance as provided in this section.”

It is also common knowledge that grant of bail for bailable offences is predicated on the presumption that is also embedded in our Constitution, which is to the effect that every person is presumed innocent until proven guilty.

What is patently evident from the application is that manslaughter, the offence with which the applicant is charged, is not in the list of offences in respect of which bail is restricted by section 148 (5) of the CPA, or any other piece of legislation. This is why the application has not drawn any opposition from the respondent. It is in view of all this that I find that this application has met the threshold necessary for triggering the Court’s discretion and admit the applicant to bail. Consequently, I grant the application as prayed.

While granting the application, I am mindful of the requirements set out in section 148 (6) and (7) of the CPA. This provision imposes conditions under which an accused person should be admitted to bail. Consistent

therewith, I impose the following specific bail conditions which should be cumulatively adhered to:

1. The applicant should produce two reliable sureties each of whom shall execute a bond worth TZS. 10,000,000/-;
2. The applicant shall avail himself and appear in the trial court, whenever Criminal Session Case No. 149 of 2022 is called on for orders;
3. The applicant shall surrender his passport or other travel documents, if any, to the Deputy Registrar of the Court, and that such document(s) shall remain in the custody of the Court for the entirety of the trial proceedings;
4. The applicant shall, once in every two weeks, report to a nearest police station within the area of his residence;
5. During the period under which the applicant will be on bail, he shall not go out of his resident district without the permission of the Office of the Officer Commanding the District (OCD);
6. The District Registrar of the Court shall verify and scrutinize bond documents, and any other documents, as submitted by the applicant and his sureties.

Order accordingly.

DATED at **DAR ES SALAAM** this 26th day of August, 2022.



M.K. ISMAIL

JUDGE

26.08.2022

