

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA
AT SHINYANGA**

MISCELLANEOUS CRIMINAL APPLICATION NO. 5 OF 2022

(Arising from PI No. 1/2022 before Kishapu District Court)

PASCHAL MANYINZI @ KULWA.....APPLICANT

VERSUS

THE REPUBLIC..... RESPONDENT

RULING

9th June 2022

Mkwizu J:

The applicant in this application was charged with manslaughter contrary to section 195 and 198 of the Penal Code Cap 16 R.E 2019 at Kishapu District Court. He has filed this application under section 148(1)(3) of the Criminal Procedure and article 13(6) (b) of the Constitution of the United Republic of Tanzania 1977 praying for bail pending trial. The application is as required supported by an affidavit sworn by the applicant himself on 18/5/2022. The respondent did file a counter affidavit in opposition of the application.

When the parties appeared before me for hearing today, the applicant was in person while the respondent was represented by Ms Shani, learned State Attorney. Applicant submissions were short, he prayed for bail pending trial insisting of his readiness to attend the trial whenever required by complying to all bail conditions that the court will impose on him.

In response, Ms Shani, learned State Attorney was of the view that bail should not granted because it is still early since the commission of the crime and secondly she relied on the tendency of abscondment of accused persons who are granted bail by the court .

I have considered both parties submissions as well as the applicant's affidavit in support of the application. There is no doubt that applicant is charged with a bailable offence. The leading principle in criminal justice is, an accused person is entitled to bail pending trial in all bailable offence as an accused person is presumed innocent until the contrary is proved as spelt out under Articles 13(6)(b) and 14 of the Constitution of the United Republic of Tanzania, 1977.

I have, guided by this constitutional principle, considered the Respondents opposing arguments that it is early since the commissions of the offence to grant the applicant bail and they are worried that applicant might jump bail. I find the reasons weak against the applicant's application. There is no strong reason brought before the court by the prosecution showing if the applicant is in anyhow in danger, likelihood of interference with the investigation or possibility that applicant may commit another offence. And the issue of abscondment expressed by the learned State Attorney was given in a general way. I expected the prosecution to come with a specific statement showing the danger of granting the prayers sought in this application. Mere speculations and worries without tangible facts cannot at any rate defeat one's constitutional rights.

On his part, Applicant has shown his readiness to comply with all bail conditions to be imposed by the court and that he is ready to appear before the court whenever required. I find the application worth granting for there is no valid reason by the State Attorney impeding the grant of the application.

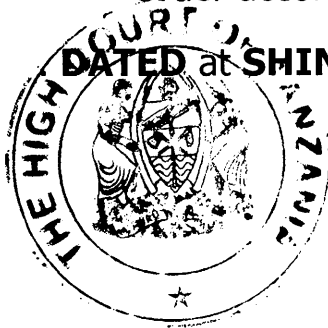
Applicant is hereby granted bail on the following conditions: -

1. The applicant must have two reliable sureties' citizens of the United Republic of Tanzania who shall each sign a bond of Tsh 5,000,000/= or submit proof of ownership of immovable properties of similar value.
2. The sureties must be residents of Shinyanga region with recognized place of abode with introduction letter from their local authority together with their valid National Identification Cards.

3. The accused should not leave jurisdiction of this court without prior permission from the Deputy Registrar Shinyanga .
4. The applicants shall surrender their passports or any travelling documents (if any)
5. The applicant will report to the office of Deputy Registrar once a month until the end of the trial.
6. The applicant must attend his case once summoned to appear before the court.

The sureties to be approved by the Deputy Registrar Shinyanga.

Order accordingly:



DATED at SHINYANGA this 10th day of June 2022.

E. Y. Mkwizu
E. Y. MKWIZU

JUDGE

10/06/2022