

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM
AT DAR ES SALAAM**

MISC. CRIMINAL APPLICATION NO. 120 OF 2022

KELVIN EMMANUEL MWAWALO APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

(Arising from Criminal Sessions Case No. 115 of 2022)

RULING

6th and 6th September, 2022

KISANYA, J.:

The above named applicant was arraigned before this Court, for an offence of manslaughter contrary to section 195 and 198 of the Penal Code, Cap. 16, R.E. 2019 (now R.E. 2022). While waiting for plea taking and trial, he has filed the present application for bail pending trial. His application is made under section 148 of the Criminal Procedure Act, Cap. 20, R.E. 2019 (now R.E. 2022). Supporting the application is an affidavit sworn by the applicant. It is the said affidavit which contains the facts on which this application is grounded.

When this application was called on for hearing today, the applicant appeared in person, while Ms. Lilian Rwetabura, learned State Attorney appeared for the respondent.

Submitting in support of the application, the applicant prayed that he be admitted to bail. He adopted the affidavit to form part of his submission. On his part, Ms. Rwetabura informed the Court that the respondent was not contesting as the offence laid against the applicant is bailable.

Having gone through the application and submissions by the parties, the issue is whether the application has merits.

It is not disputed that the offence preferred against the applicant is bailable. As deposed by the applicant, the case subject to this application is pending in this Court. That being the position, this Court has jurisdiction to determine the application and admit him to bail. I am fortified by the provision of section 148(2) of the CPA which provides: -

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.

I have further considered the trite law that bail is a constitutional right premised on the principle of presumption of innocence and right to personal freedom. I am also alive to the settled position that bail is granted basing on the circumstances of each case. In this case, the applicant undertakes to comply with bail condition. He has also deposed to have reliable sureties who will guarantee his presence during trial. As that was not enough, the prosecution is not opposing the application.

On the foregoing the reasons I find that this application has merits. It is accordingly, granted as prayed. In the result, the applicant is hereby admitted to bail on the following conditions set out in section 148(6) and (7) of the CPA.

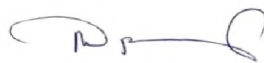
1. During the period under which the applicant will be on bail, he shall not travel outside Dar es Salaam Region without a prior approval of this Court, through the Deputy Registrar.
2. The applicant should have two reliable sureties with a fixed place of abode within Dar es Salaam Region.
3. Each surety shall execute a bond worth Tshs. 5,000,000/=.
4. Each surety shall produce an introductory letter from his or her employer or local authorities and a copy of recognized identity card.

5. The applicant shall avail himself and appear whenever Criminal Session Case No. 115 of 2022 is called on for orders.
6. The applicant shall surrender his passport or any travel document, if any to the Deputy Registrar of this Court.
7. The applicant shall, on last Friday of each month, report to Oysterbay Police the police station, where the offence laid against him was reported.

It is further directed that the bond documents and any other documents to be submitted by the applicant and his sureties shall be verified and scrutinized by the District Registrar.

Order accordingly.

DATED at DAR ES SALAAM this 6th day of September, 2022.



S.E. Kisanya
JUDGE

Court: Ruling delivered this 6th day of September, 2022, in the presence of the applicant and Ms. Lilian Rwetabura, learned State Attorney for the respondent.



A handwritten signature in black ink, appearing to be "S.E. Kisanya".

S.E. Kisanya
JUDGE
06/09/2022