

IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM SUB DISTRICT REGISTRY)

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 117 OF 2022

(Arising from criminal session No. 174 of 2022 before the High Court of Dar es Salaam)

GODSON DANIEL KILEO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

Date of last Order: 12/09/2022

Date of Ruling: 16/09/2022

E.E. KAKOLAKI J.

The applicant who is charged of the offence of Manslaughter, Contrary to sections 195 and 196 of the Penal Code [Cap 16 R.E2019] now R.E 2022, has moved this Court to grant him bail pending trial before the Court, in criminal Session No. 174 of 2022. The application is preferred under section 148 (1) and (2) of Criminal Procedure Act [Cap 20 R.E 2019], now R.E 2022. The application is supported by the applicant's affidavit. It is alleged in the charge sheet attached to the affidavit that, on 28th January 2022 at Kigogo palm view bar area, within Kinondoni District at Dar es Salaam, the applicant did unlawful kill one Yahaya Hamisi Suleman. When the matter was called

for hearing the applicant appeared unrepresented while the respondent was represented by Mr. Genes Tesha, learned Senior State Attorney.

It was the applicant's submission that, since his case is pending for trial before this Court he is persuaded that this Court is clothed with jurisdiction to entertain this application. It is his averment in the affidavit that, he has reliable sureties who can guarantee and procure his attendance in court at any time as it may be required. On his side, the respondent did not oppose the application, thus he did not file counter affidavit. The applicant being a lay person had nothing to add than informing the court that, he is seeking for bail so as to attend school, since he was selected to join Ziba Secondary School at Tabora, for A- level studies.

I have had time to go through the applicant's grounds in support of this application as stated in his affidavit. Undoubtedly, the offence facing the applicant is bailable. As alluded to above, the application was preferred under section 148 (1) and 148 (2) of the CPA Cap 20 R.E 2019, and section 148 (1) confers this court with jurisdiction to grant bail before commencement of the trial. I have taken into consideration the fact that, the application is not contested and that, the applicant has reliable sureties ready to secure his presence when called by the trial court and further that, he is

ready to abide to all conditions set by this Court. All factors considered, I am satisfied hence concluding that, the applicant has met all the conditions warranting this Court grant him bail as to hold otherwise is tantamount to denying him that basic Constitutional right as articulated under Articles 13 (6) (b), and 15 (1) and 15 (2)(a) of the Constitution of the United Republic of Tanzania, 1977 as amended, as well as the principle stated by the Court of appeal in the case of **Director of Public Prosecutor vs. Daudi Pete** (1993) TLR 22.

In the upshot the applicant's application is granted. He is therefore granted bail pending trial upon fulfilment of the following conditions:

- (1) The applicant shall deposit to the custody of the court a sum of Tsh. 10,000,000/= in cash or tittle deed or evidence satisfactory to prove existence of immovable property/properties valued at Tsh.10,000,000/-.
- (2) The applicant shall have two reliable sureties with fixed place of abode within Dar es Salaam Region.
- (3) Each surety shall execute a bail bond of Tsh.5,000,000/=

- (4) Each surety shall produce an introductory letter from his or her employer and a copy of his identity or local authorities and a copy of recognized identity card preferably National identity card.
- (5) The applicant shall surrender his passport or travelling documents (if any)
- (6) The applicant must attend in court on every date his case is scheduled.
- (7) During the pendency of the case before the High Court, the applicant is allowed to attend school at Tabora but shall seek prior written approval from the Deputy Registrar of the High Court of Tanzania, Dar es Salaam sub-District Registry.
- (8) For purposes of convenience, sureties' verification and bond documents shall be executed by the Deputy Registrar of the High Court Dar es Salaam Sub-District Registry.

It is so ordered.

DATED at Dar es Salaam this 16th day of September 2022.



E. E. KAKOLAKI

JUDGE

16/09/2022.

The ruling has been delivered at Dar es Salaam today 16th day of September, 2022 in the presence of the applicant in person, Mr. Genes Tesha, State Senior Attorney for the respondent and Ms. Monica Msuya, Court clerk.

Right of Appeal explained.



E. E. KAKOLAKI

JUDGE

16/09/2022.

