

**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. 133 OF 2022**

**FREDY MESA OGUTU ..... APPLICANT**

***VERSUS***

**THE REPUBLIC ..... RESPONDENT**

**(Arising from Criminal Sessions Case No. 66 of 2022)**

**RULING**

7<sup>th</sup> and 7<sup>th</sup> October, 2022

**KISANYA, J.:**

This is an application for bail pending trial. It is preferred under section 148 of the Criminal Procedure Act, Cap. 20, R.E. 2019 [now R.E. 2022] (the CPA) and supported by an affidavit sworn by the above named applicant. Pursuant to the supporting affidavit, the applicant stands charged in this Court with an offence of manslaughter contrary to sections 195 and 198 of the Penal Code, Cap. 16, R.E. 2019 (now R.E. 2022).

In terms of the information appended to the supporting affidavit, he is alleged to have unlawfully killed one Seleman Salum, on the 12<sup>th</sup> day of December, 2021, at Msimbazi Mivinjeni area within Dar es Salaam Region. Given that the offence is bailable, the applicant has moved this Court to admit him to bail pending trial. Although the chamber summons and affidavit show that this case arises from

Criminal Session Case No. 80 of 2022, the information appended to the supporting affidavit and the record of this Court are to the effect that the case the pending case is Criminal Session No. 66 of 2022. Nevertheless, the respondent did not file a counter affidavit to object the application.

At the hearing of this application before this Court, the applicant appeared in person, unrepresented. On the other side, the respondent/ Republic was represented by Mr. Herson Mwasimba, learned Senior State Attorney.

At the outset, the learned Senior State Attorney rose to inform the Court that the respondent/Republic was not objecting the application. His submission was premised on the ground that offence preferred against the applicant is bailable. Upon hearing the learned State Attorney, the applicant had nothing to add other than asking this Court to grant the application. He contended to have reliable sureties.

Having examined the chamber summons and supporting affidavit and considered the prayers made by the parties, the issue for this determination by this Court is whether this application for bail pending trial has merit.

I wish, at first place, to point out that, it is common ground that the applicant is charged with a bailable offence. In terms of section 148(2) of the CPA, this Court is enjoined to determine the application and admit the applicant to bail. It is settled

law that in determining the application for bail, the main issue to be considered by the court is whether the accused would be available at the trial. Other issues include, whether the accused is likely to commit further offence if granted bail and whether the accused is likely to interfere with the investigation by influencing witnesses or otherwise. [See the case of **Patel vs. Republic** [1978] HCD No.391]. Since the application is not contested by the Republic, I find no cogent reason to answer the above issues against the applicant.

In view of the above reasons, I find merit in this application and proceed to grant it. Consequently, the applicant is hereby admitted to bail on the following conditions:-

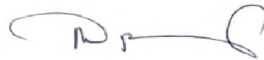
1. The applicant should have two reliable sureties with a fixed place of abode within Dar es Salaam Region.
2. Each surety shall execute a bond worth Tshs. 8,000,000/=.
3. Each surety shall produce an introductory letter from his or her employer or local authorities and a copy of recognized identity card.
4. Applicant must avail himself and appear whenever Criminal Session Case No. 66 of 2022 is called on for orders or hearing.
5. The applicant shall surrender his passport or any travel document, if any to the Deputy Registrar of this Court.

6. 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.

In conclusion, 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.

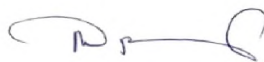
It is so ordered.

DATED at DAR ES SALAAM this 7<sup>th</sup> day of October, 2022.



S.E. Kisanya  
**JUDGE**

Court: Ruling delivered this 7<sup>th</sup> day of October, 2022, in the presence of the applicant and Mr. Herson Mwasimba, learned Senior State Attorney for the respondent.



S.E. Kisanya  
**JUDGE**  
7/10/2022