

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[IN THE DISTRICT REGISTRY OF ARUSHA]

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 54 OF 2022

(Originating from Criminal Case No. 102 of 2015 before Karatu District H/C Criminal Appeal No. 22 of 2018)

MT. 59505 SGT AZIZ ATHUMAN YUSUPHAPPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

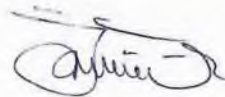
24th & 28th October 2022

TIGANGA, J.

In this application, the applicant MT. 59505 Sgt Aziz Athuman Yusuph prays for extension of time to file Notice of Intention to Appeal to the Court of Appeal of Tanzania out of time. He preferred the application under section 11 (1) of the Appellate Jurisdiction Act [Cap 141 R.E 2019] and any other enabling provision of law.

The application was filed by chamber summons which was supported by an affidavit affirmed by the applicant himself. In that affidavit the reasons for the application are stated as well as the background for the delay.

From the record, the background of the application is made clear. Initially, the applicant stood charged before the District Court of Karatu, in Criminal Case No. 102 of 2015 with an offence of unlawful possession

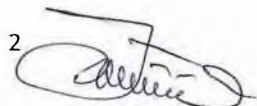


of fire arm and ammunitions. He was found guilty and convicted by that court, before he appealed to this Court vide Criminal Appeal No. 22 of 2018 where his appeal was unsuccessful.

Before he commenced the appeal process to the Court of Appeal of Tanzania, he realized that he was time barred. He decided to file this application so that he can be extend time to lodge Notice of intention to file an appeal before the Court of Appeal. He said that, his failure to file the Notice in time was contributed by the matter beyond his control. He prayed the application to be granted.

When this application was served to the respondent Republic, Ms. Akisa Mhando, Senior State Attorney who appeared representing the respondent did not file counter affidavit. During hearing of the application, she made it clear that she was not contesting the application.

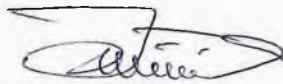
I have considered the reasons given by the applicant in the supporting affidavit and the facts that he is actually in jail. Considering the fact that the provision upon which the application was preferred, that is section 11 (1) of the Appellate Jurisdiction Act (supra) empowers this Court to enlarge time to a person who finds himself late to file or lodge a Notice of Intention to Appeal to the Court of Appeal to challenge the decision of the High Court. I find the application to be a fit case for

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extending time to file a Notice of Appeal. On that basis, I grant the application. The applicant is given 14 days from the date of this ruling, within which to lodge the Notice of Appeal.

It is ordered accordingly

DATED at **ARUSHA**, this day of 28th October, 2022



J. C. TIGANGA

JUDGE