

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB-REGISTRY OF MANYARA

AT BABATI

MISC. CRIMINAL APPLICATION NO. 1 OF 2022

DOMINICK MAYEGA..... APPLICANT

VERSUS

MANYARA REGIONAL POLICE COMMANDER.....1ST RESPONDENT

MANYARA REGIONAL CRIME OFFICER OF POLICE..... 2ND RESPONDENT

KITETO POLICE OFFICER COMMANDING DISTRICT..... 3RD RESPONDENT

KITETO DISTRICT POLICE OFFICER COMMANDING

CRIMINAL INVESTIGATION DEPARTMENT4TH RESPONDENT

OFFICER COMMANDING STATION KIBAYA POLICE5TH RESPONDENT

THE DIRECTOR OF PUBLIC PROSECUTION..... 6TH RESPONDENT

INSPECTOR GENERAL OF POLICE OF TANZANIA.....7TH RESPONDENT

RULING

29th & 29th November, 2022

Kahyoza, J.:

Dominick Mayega applied under sections 390 and 391 of the **Criminal Procedure Act**, [Cap. 20 R.E. 2022] (the CPA) and rules 2 and 7 of the Criminal Procedure (Habeas Corpus) Rules, G.N. Notice No. 150 of 1930 to this Court to order his immediate release from unlawful custody of **Kiteto District Police Officer Commanding Criminal Investigation**

Department and Officer Commanding Station Kibaya Police.

A brief background is that; the police arrested **Dominick Mayega**, the applicant, a econdary school teacher, on 21st November, 2022. They held him in custody without granting him bail. Efforts by the applicant's advocate to have him bailed, proved futile as the police responded that investigation was under way. The police also denied the applicant's advocate and relative to meet him.

Suspicious that, the police had no intention to charge or admit him to bail, the applicant instituted the application for *habeas corpus* seeking this Court to order the respondents to appear and show cause why they have unlawfully kept him under unlawful custody; to order the **Director of Public Prosecutions** to deal with him in accordance with the law; to order **Kiteto District Police Officer Commanding Criminal Investigation Department and Officer Commanding Station Kibaya Police** pay him compensation for loss suffered; and any other relief(s) as the Court would deem fit.

The respondents were served with the order to release the applicant or appear and show cause why they should not release him. On the day fixed for appearing, Ms. Blandina learned State Attorney appeared for the **Director of Public Prosecutions** and notified the Court that, the application has

been overtaken by event as the applicant had been arraigned before Kiteto district court indicted with the offence of murder. She submitted that, the applicant was arrested for the offence of murder and that section 148 (5) (a) (i) of the Criminal Procedure Act, bars the police or the court to grant bail to a person charged with the offence of murder. She produced a copy of the charge sheet and prayed the application to be dismissed.

The applicant's advocate concurred with Ms. Blandina state Attorney that, the applicant had been arraigned before Kiteto charged with the offence of murder. He conceded that, the law does not allow a person charged with the offence of murder to be admitted on bail. He objected to the prayer the application to be dismissed for being overtaken by events. He prayed the Court to mark the application acted upon as one of the prayers in the application was to order the **Director of Public Prosecutions** to deal with the applicant in accordance with the law.

Indisputably, the application has been overtaken by events, as the **Director of Public Prosecutions** has dealt with the applicant in accordance with the law, by charging him. There is nothing left for this court to determine. I accordingly, mark that the application to have been overtaken by events as the **Director of Public Prosecutions** has dealt with the applicant in accordance with the law.

I so order.

Dated this 29th day of November, 2022.



J.R. Kahyoza

JUDGE

Court: Ruling delivered in the presence of the applicant's advocate and Ms. Blandina, State Attorney for respondents.

J.R. Kahyoza
JUDGE
29/11/2022