

**IN THE HIGH COURT OF TANZANIA
(MOROGORO DISTRICT REGISTRY)**

AT MOROGORO

MISC. CRIMINAL APPLICATION NO. 32 OF 2022

(Arising from Economic Case No. 22 of 2021, in the Mvomero District
Court, at Mvomero)

MAULID SALUMU APPELLANT

VERSUS

THE REPUBLIC..... RESPONDENT

R U L I N G

24th November, 2022

CHABA, J.

The applicant, Maulid Salumu, filed the instant application seeking for an order for extension of time within which to file an appeal out of time. The application has been taken out under section 361 (2) and 392 A (2) of the Criminal Procedure Act [Cap. 20 R. E, 2019] Now [R. E, 2022] (the CPA). The application is supported by an affidavit deposed by the applicant himself. Apparently, this application is not objected by the respondent.

When this application was called on for hearing on 10th November, 2022, the applicant appeared in person, unrepresented while the Respondent / Republic was represented by Mr. Emmanuel Kahigi, learned State Attorney.



Submitting in support of his application, the applicant highlighted that he delayed to file his appeal because for the first time he was jailed and sent to Wami Kuu Prison, thereafter he was sent to Mbigiri Prisons in Mvomero District and later, he was brought herein Morogoro Prisons.

He stated further that, he was sentenced on 2/3/2021 and sent to Mbigiri Prisons for about ten (10) days, and thereafter in December, 2021 he was taken to Morogoro Prisons. The applicant lamented that, the Prisons Officers are the ones who caused the delay for him to file his appeal out of time. He therefore, prayed this court to consider his application and grant extension of time to file his appeal out of time.

When Mr. Kahigi was invited to argue the application on behalf of the Respondent / Republic, he was quick to inform the court that the respondent did not seek to oppose the application. Indeed, he supported the applicant's prayer and stated that since the applicant was not the source of delay or did not cause the delay, then the court using its discretionary power may grant the prayers sought by the applicant.

In his brief rejoinder, being a layman and detainee, the applicant echoed his prayers and requested the court to allow him file his appeal out of time.

Having heard and considered the rival submissions from both parties, and upon considered the applicant's affidavit and learnt that on being convicted on 02/03/2021 for the offence of Trafficking in Narcotics Drugs Contrary to Section



15A of the Drugs Control and Enforcement Act [Cap. 95 R. E, 2019], the applicant expressed his intention to appeal by signing the same through the Wami Kuu Prisons Authority. It is evident from the record, he received a copy of judgment and proceedings from the District Court of Mvomero, and gave those documents to his relatives for the purpose of finding an advocate to prepare grounds of appeal.

He averred further that he was transferred to Mbigiri Prisons to serve his sentence and lost communication with his relative and consequently he found himself exceeding 40 days to submit his appeal as prescribed by law.

From the foregoing, I have anxiously considered the application. The position of the law is settled that a party seeking an extension of time should show sufficient cause for his delay and account for each day of his delay. (See: **Benedict Mumello vs. Bank of Tanzania**, Civil Appeal No. 12 of 2002 Court of Appeal of Tanzania (Unreported) and **Juluma General Supplies Limited vs. Stanbic Bank Limited**, Civil Application No. 48 of 2014 (unreported)).

In this application, the applicant is blaming the Prisons Authority being the source of delay because when he entered the Prisons, he was involved in the two transfers from Wami Kuu to Mbigiri Prisons and finally to Morogoro Prisons and eventually he lost communication with his relatives who had to arrange for the appeal process with the help of an advocate. Illuminated by these factors, I shall right away accept the above explanation that it constitutes a good cause

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when it comes to the question of enlargement of time. It is also evident that the applicant has been vigilant pursuing his rights. Consequently, and on the basis of the foregoing, I hold that the applicant has spectacularly succeeded to convince this court that delays in lodging the notice of appeal to appeal and petition of appeal were caused by sounding reasons that fall in the realm of sufficient case.

In view thereof, I allow the applicant's application. This court extends the time within which the applicant may file notice of intention to appeal to fifteen (15) days and the intended appeal shall be lodged in court within forty-five (45) days from the date of this ruling. **It is so ordered.**

DATED at MOROGORO this 24th day of November, 2022.

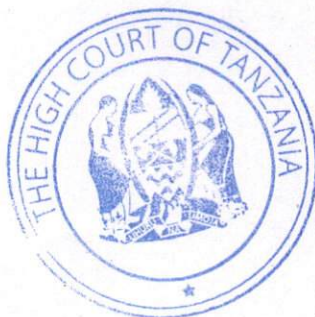


M. J. CHABA

JUDGE

24/11/2022

Right of to the parties fully explained.



M. J. CHABA

JUDGE

24/11/2022