

**IN THE HIGH COURT OF TANZANIA**

**(MTWARA DISTRICT REGISTRY)**

**AT MTWARA**

**MISC. CRIMINAL APPLICATION NO. 15 OF 2022**

*(Originating from the District Court of Masasi at Masasi in P.I. No. 11 of  
2022)*

**RASHID FAINI ALFAN..... APPLICANT**

***VERSUS***

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

**RULING**

*Date of Last Order: 4/4/2022*

*Date of Ruling: 6/4/2022*

**LALTAIKA, J.:**

The applicant, **RASHID FAINI ALFAN**, was charged and committed to this court for the offence of Manslaughter in PI No.11 of 2022 before Masasi District Court. The applicant is alleged to have unlawfully caused the death of one William Kamtembe contrary to sections 195 and 198 of the Penal Code, Cap.16 R.E. 2019.

By way of a Chamber Summons made under Section 148 (1) and (3) of the Criminal Procedure Act, [Cap. 20 R.E.2019] and Article 13(6)(b) of the Constitution of the United Republic of Tanzania, 1977 and any enabling provision of the law, the applicant is attempting to move this court to grant the application.

The application is supported by an affidavit affirmed by the applicant. On the part of the respondent, no any counter affidavit has been filed signifying nonresistance to the application. When this matter was called on for the hearing, the applicant appeared in person, unrepresented whereas the Republic respondent was represented by Mr. Wilbroad Ndunguru, learned Senior State Attorney.

The applicant, being unrepresented, briefly argued that the reasons for his application appears in his affidavit. He prayed this court to adopt his affidavit and make it a part of his submission.

The applicant had argued that he has a wife and four children who depend on him for their daily bread. In addition, as per paragraph 7 of his affirmed affidavit, the applicant averred that he is honest, trustworthy and a person of good character who would observe all conditions if bail will be granted to him. In the light of that submission, the applicant prayed this court to grant him bail so he would be able to take care of his family while the case is awaiting scheduling of the High Court Criminal Session. Furthermore, if bail is be granted the applicant promised not to affect the investigation and proceedings of the case.

In response, Mr. Ndunguru did not object the application. He opined that on the outset, the offence the applicant is facing, Manslaughter isailable in our jurisdiction. However, the learned Senior State Attorney went further and urged that section 148(6) and (7) of the Criminal Procedure Act provide for mandatory and other conditions to be observed by this court when admitting bail to the applicant.

In view of that argument, Mr. Ndunguru prayed this court to take cognizance to the criteria put down under above mentioned subsections (6) and (7) of Section 148 of the CPA.

In a very short rejoinder, the applicant submitted that his sureties are situated at Masasi and they were ready to bail him out.

Having gone through the charge sheet, affidavit of the applicant and the submissions by the parties, I am satisfied that the applicant is eligible for bail as the offence of Manslaughter to which he stands charged is bailable under section 148(1) of the Criminal Procedure Act.

In view of the above, this court hereby grants the application in line with the requirements as provided under Section 148 (6) and (7) of the Criminal Procedure Act. Thus, the applicant may be released upon fulfilling the following conditions: -

1. The applicant shall execute a bail bond of Tshs. 5,000,000/= with two (2) reliable sureties, each in the same amount.
2. The sureties to produce evidence of possessing immovable property situated at Masasi District in Mtwara Region.
3. The sureties to be reliable and approved by the Deputy Registrar, of the High Court of Tanzania at Mtwara District Registry. In proving reliability, the sureties shall prove their resident at Masasi with recognized place of abode who must possess a National ID or Voter's ID and a letter of identification from their respective Local

Authority.

3. The Applicant shall surrender to the Police at the office of RCO Mtwara his passport or any other travel documents.
5. The applicant's movements are restricted to Mtwara Region only unless a written permission is sought from and granted by the Deputy Registrar.
6. That applicant shall report once in every month to the office of the Deputy Registrar starting from the end of this month, April 2022 until his case is finally heard and determined.
7. The applicant shall attend his case once he is summoned to appear before this court.

I further order that the Honourable Deputy Registrar must ensure that all bail conditions are implemented accordingly.

It so ordered.



**E.I. LALTAIKA**

A handwritten signature in black ink, appearing to read "E.I. Laltaika".

**JUDGE**

**6.4.2022**

**Court**

This ruling is delivered under my hand and the seal of this Court on this 6<sup>th</sup> day of April, 2022 in the presence of the Mr. Wilbroad Ndunguru, the learned Senior State Attorney and the applicant who has appeared in person and unrepresented.



**E.I. LALTAIKA**

A handwritten signature in black ink, appearing to read "E.I. Laltaika", written over a horizontal line.

**JUDGE**

**6.4.2022**