

**IN THE HIGH COURT OF TANZANIA  
(IN THE DISTRICT REGISTRY)  
AT MWANZA**

**MISC. CRIMINAL APPLICATION No.38 OF 2021**

*(Originating from Murder case No. 37 of 2020 in the Resident  
Magistrate Court of Geita at Geita)*

**HAMAD AMRI -----APPLICANT**

**VERSUS**

**THE REPUBLIC----- RESPONDENT**

**RULING**

*Last Order: 22.0.2022*

*Ruling Date: 28.02.2022*

**M. MNYUKWA, J**

The applicant in this application, one Hamadi Amri, has filed this application through chamber summons and the affidavit deposed by him. The application is made under section 148(3) of the Criminal Procedure Act



Cap 20 RE.2019. The applicant was originally arraigned before the Resident Magistrate Court of Geita at Geita facing the charge of murder contrary to section 196 of the Penal Code Cap 16 R.E 2019 in a Murder Case No. 37 of 2020. Later on, the Information was substituted with charge of manslaughter contrary to section 195 and 198 of the Penal Code Cap 16 R.E 2019. Now the offence being bailable one, the applicant brought his application before this court prayed the court to grant him bail pending the determination of his trial.

During the hearing of this application, the applicant fended himself, while the Respondent was represented by the learned Senior state attorney, Ms Magreth Mwaseba. The existence of the infrastructure made it easy for the application to be heard orally through audio teleconference as the applicant was not arraigned before this court but he managed to argue his application while at Geita prison.

In his submission the applicant briefly prayed to be granted bail as the offence of manslaughter is bailable one. He wisely prayed to adopt his affidavit filed in court dated 25/10/2021 to form part of his submission. In



brief, the applicant's affidavit shows that the applicant had reliable sureties, he resides and working for gain at Geita township and that he will be readily available when his case will be called for mention or hearing.

In responding to the applicant's submission, Ms Mwaseba submitted that they do not object the application as the offence is bailable. She prayed this court to grant bail to the applicant subject to the conditions which will enable him to be available when required to appear before the court.

In re-joining, the applicant submitted that, since the respondent did not object the application, he prays for his application to be granted as he is ready to meet the conditions set for bail.

After both parties' submission, this court is faced with one issue as to whether the applicant is eligible to be granted bail. In answering this issue, I would like to remind myself of the jurisdiction of this court regarding bail application. The law that provides for the bail application, firstly is the mother law which is the Constitution of the United Republic of Tanzania Cap 2 R.E 2019 as provided under article 13(6)(b) which provides for the presumption of innocence until a person is proven guilty in the court of law. To narrow



down the scope of law, the Criminal procedure Code Cap 20 R.E 2019 specifically under section 148 of the Criminal Procedure Act, Cap 20 R.E 2019 has also provided for bailable and non bailable offences. The applicant in this particular application is facing charge of Manslaughter contrary to section 195 and 198 of the Penal Code Cap 16 R.E 2019 which is among of the bailable offences as it was rightly submitted by the applicant.

The applicant submitted that; he is seeking for his release on bail as the charge he is facing is bailable subject to the court's conditions imposed by the court. And, as the respondent counsel did not object the applicant's prayer, I find no reason to reserve the right to grant this application. However as prayed by the respondent this court will allow this application pursuant to the set conditions as empowered by the provision of section 148(3) of the Criminal Procedure Act Cap 20 RE 2019.

Hence the applicant will be released on bail upon fulfilling the following conditions:



- i. The applicant must have two reliable sureties' citizens of the United Republic of Tanzania and resident of the local jurisdiction of the court who shall each sign a bond of Tsh 5,000,000/= or submit proof of ownership of immovable properties valuing the same.
- ii. The sureties must be residents of Geita region with recognized place of abode, and must have introduction letter from their local authority together with the National Identification Card.
- iii. The introduction letter must be vetted for approval by the Resident Magistrate in-charge of Geita Resident Magistrate Court.
- iv. The accused should not leave jurisdiction of this court without prior permission from the Resident Magistrate in charge.
- v. The applicant will report to the office of the Resident Magistrate Incharge of Geita Resident Magistrate Court once a month starting from March 2022 until his case is finally heard and determined.
- vi. The applicant must attend his case once summoned to appear before the court.



- vii. The Resident Magistrate incharge will approve the sureties before the Applicant is released on bail and shall ensure that the bail conditions and terms thereof are complied with and maintained accordingly even after the applicant's admission to bail pending the timely disposal or trial of the case against the applicant.



  
**M. MNYUKWA**  
**JUDGE**  
**28/2/2022**

Ruling delivered in the presence of the applicant in person and in the absence of the respondent.

  
**M. MNYUKWA**  
**JUDGE**  
**28/2/2022**