

**THE UNITED REPUBLIC OF TANZANIA  
JUDICIARY  
IN THE HIGH COURT OF TANZANIA  
AT MBEYA  
MISC. CRIMINAL APPLICATION NO. 106 OF 2021  
(Originating from The District Court of Mbeya at Mbeya,  
Criminal Case No. 94/2021)**

**ISAKA WILLIAM MWANTORE.....APPLICANT**

**VERSUS**

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

**R U L I N G**

*21<sup>st</sup> February & 21<sup>st</sup> February, 2021*

**KARAYEMAHA, J**

By game of chance, the applicant Isaka William Mwantore, has moved this Court under section 148 (3) of the Criminal Procedure Act, Cap 20 R.E 2019 to grant his application for bail pending hearing of his case in the Mbeya Resident Magistrate's Court. The accused was arraigned before Mbeya Resident Magistrate's Court for the offence of Armed Robbery contrary to section 287A of the Penal Code, Cap 16 R.E 2019.

His major reason set forth in his affidavit in support of the application is that since 2<sup>nd</sup> September, 2021 up to now, investigation of his case is incomplete.

This application has been vehemently objected by the Republic through the counter affidavit sworn by Ms. Sara Anesius.

Having given the application and supporting affidavit, the counter affidavit and rival submissions a thorough consideration, in my view the major issue is whether the offence of armed robbery is bailable.

Ms. Sara has submitted that this offence is unbailable in terms of section 148 (5) of the Criminal Procedure Act. I agree with her because the law is pretty clear that the Court before whom an accused person appears shall not admit him to bail if he is charged with armed Robbery. So the trial Court was right in rejecting bail application by the accused.

However although the High Court is endowed with powers under section 148 (3) of the Criminal Procedure Act to direct that the applicant be admitted to bail, that power is subject to the provisions of subsection (5) of section 148. This means that offences listed under subsection (5) to be unbailable, the High Court has no powers to direct the subordinate Court to admit the accused to bail.

Owing to the law in respect of admitting the accused to bail, this application has no merit. This Court has no powers to admit or direct the applicant to be admitted to bail because the offence of armed robbery is unbailable.

Consequently, the application is dismissed in its entirety.



  
**J. M. Karayemaha**  
**JUDGE**  
**21/02/2022**

**Court:** Ruling delivered in the presence of both parties this 21<sup>st</sup>  
February, 2022.

  
**J. M. Karayemaha**  
**JUDGE**  
**21/02/2022**