

IN THE HIGH COURT OF TANZANIA
(MTWARA DISTRICT REGISTRY)
AT MTWARA
MISC. CRIMINAL APPLICATION NO. 4 OF 2022
(Original Cr case No 43/2020.)
(In the district court of Mtwara at Mtwara)

GABRIEL MOHAMED JAMAL.....APPLICANT

VERSUS

THE REPUBLICRESPONDENT

Date of hearing: 23/03/2022

Date of Ruling: 23/03/2022

RULING

Muruke, J.

Gabriel Mohamed Jamal, was charged and convicted of offence of Armed Robbery, thus sentenced to serve 30 years imprisonment on 17th September.2020. Being dissatisfied, he filed appeal number 13/2021 that he himself withdraw with leave to refile, on 20th October 2021 before Honourable Dyansobera J,

He has filed present application for leave to appeal out of time. Reasons are stated in his affidavit in support of the application. Learned State Attorney Paul G Makasi did not object to the prayer sought. To this court, what applicant is seeking is right to be heard on his intended appeal. Right to be heard is fundamental rights, cannot be denied easily. To deny one's right of hearing is to infringe basic principles of natural justice.



Court of Appeal in the case of **Mobrama Gold Corporation Ltd Vs. Minister for Energy and Mineral, and East African Goldmines Ltd as Intervor [1998] TLR 245**, observed that;

“It is generally inappropriate to deny a party an extension of time where such denial will stifle his case; as the respondents’ delay does not constitute a case of procedural abuse or contemptuous default and because the respondent will not suffer any prejudice, if extension sought is granted.”

What applicant is requesting before this court, is extension of time to file appeal for him to be heard. The right to be heard is safeguarded in the constitution. Article 13(6) (a) of the constitution provides in the Kiswahili version thus;

“(6) Kwa madhumini ya kuhakikisha usawa mbele ya sheria, mamlaka ya nchi itaweka taratibu zinazofaa au zinazo zingatia misingi kwamba;”

“(a) Wakati wa haki na wajibu wa mtu yeyote vinahitajika kufanyiwa uamuzi wa mahakama au chombo kingine kinacho husika, basi mtu huyo atakuwa na haki ya kukata rufaa au kupata nafuu nyingine ya sheria kutokana na maamuzi ya mahakama au chombo hicho kinginecho kinachohusika.”

In totality, applicant has advanced good grounds for extension sought, thus, extension of time is granted. Intended *appeal* to be filed within 45 days from today.




Z. G. Muruke
Judge
23/03/2022

Ruling delivered in the presence of Paul G. Makasi State Attorney for the respondent, and applicant in person.



Z. G. Muruke

Judge

23/03/202

