

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY
AT MWANZA**

MISC. CRIMINAL APPLICATION NO. 41 OF 2021

(Arising from Criminal Session No. 113/2021 in the High Court of Tanzania at Mwanza)

SAMWELI S/O MUSSA.....APPLICAANT
VERSUS
THE REPUBLIC..... RESPONDENT
RULING

04th & 08th March, 2022

ITEMBA, J.

This is an application for bail made by way of chamber summons under section 148(1) and (3) of the Criminal Procedure Act. It is supported by the affidavit of the applicant himself.

The applicant herein stands charged with an offence of manslaughter contrary to sections 195 and 198 of the Penal Code in the Criminal Sessions Case No. 113 of 2021 which is pending in this Court.

It is alleged that on 26th day of January, 2021 at Mhama Village within Bukombe District in Geita Region the applicant together with Joyce Paul unlawful killed one Mussa Richard.

As the applicant was in Kahama Prison, this application was heard by way of audio call upon parties' consensus. The applicant was unrepresented whilst the respondent/ Republic appeared through Ms. Maryasinta Lazaro, learned Senior State Attorney.

The applicant briefly informed the Court that he had applied for bail and pray the same to be granted. He added that he has reliable sureties.

On account of the submission by the State Attorney, Ms Lazaro stated that the Republic does not object bail application. She prayed for the court to issue conditions which will ensure availability of the applicant before the court.

I have gone through the applicant's affidavit, the attached charge as well as the governing provisions of section 148 of the Criminal Procedure Act. I am satisfied that the offence with which the applicant is charged is bailable.

I have noted that the court was wrongly moved as the applicant cited section 248 of CPA instead of Section 148 however as the wrong citation does not prejudice any party and it is curable under Section 388 of the CPA, I see no reason to struck out the application with leave to refile as

submitted by the learned Senior State Attorney. I consider it as a typo or slip of a pen which should not detain this application.

In view of the above, I hereby admit the applicant to bail, in terms of section 148(1) of the Criminal Procedure Act subject to fulfilment of the following conditions.

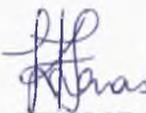
1. That, the applicant should execute a bond of Tanzanian shillings Five Million (Tshs 5,000,000/=)
2. That, the applicant should have two reliable sureties who are residents of Geita region and sureties should be either employees of the Government or possesses a National Identity Card issued by NIDA with permanent residence within Geita Region.
3. Each surety should execute a bond of Tanzanian shillings Three Million (Tshs 3,000,000/=).
4. Verification of sureties and bond documents to be executed by the Deputy Registrar.

5. That applicant must surrender to the RCO's Office – Geita, his passport or travel documents (if any).
6. Applicant should appear before the Court on specified dates, time and place whenever he is needed.
7. Applicant should not travel outside Geita Region without permission of this Court

It is so ordered.

DATED at Mwanza this 8th day of March, 2022.




L. J. ITEMBA
JUDGE
08/3/2022