

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**AT TABORA**

**MISC. CRIMINAL APPLICATION NO. 35 OF 2021**

(Originating from Urambo District Court in Criminal Case No. 35/2021)

**KASIGA S/O MASANJA @ NTUNGWA.....APPLICANT**

**VERSUS**

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

**RULING**

*Date: 21/3/2022 & 25/3/2022*

**BAHATI SALEMA,J.:**

The applicant, **Kasiga s/o Masanja @ Ntungwa** lodged this application under the provisions of Section 361(2) of the Criminal Procedure Act, Cap. 20 [R.E 2019] and Section 14 of the Law of Limitation Act, Cap. 89 [R.E 2019]. It is supported by an affidavit sworn by the applicant.

The applicant is praying for the following orders:

- 1. An application for enlargement of time to file both the notice and petition of appeal be allowed*

*2. Any other order as this honourable court may deem fit and just to grant in the circumstances of this application.*

When the matter was called for hearing, the applicant was self-represented while Mr. Kajiru Miraji, Senior State Attorney for the Republic.

In his submission, the applicant prayed for this court to adopt his affidavit to form part of his submission. The affidavit in support of the application reveals that he was arraigned before the District Court of Urambo District at Urambo for the offence of statutory rape, found guilty, convicted, and sentenced to serve life imprisonment. (Hon. A. A. MVULA, RM) dated 9/3/2021 in Criminal Case No. 12 of 2021.

Dissatisfied, he gave the notice of appeal to the trial court, well within the time required by law. Due to the length of the custodial sentence imposed on him, he was relocated to Uyui Central Prison at Tabora on 14/4/2021. While at Uyui Central Prison, on 28/7/2021 he received a copy of the proceedings and judgment from the trial court for him to prepare a petition of appeal to this court.

Before preparing the petition of appeal, he sought guidance from the Admission Officer of Uyui Central Prison on the how of the petition of appeal, considering that he was a layperson, thus, now conversant with

the legal procedures. The admission officer requested to know first the whereabouts of the notice of appeal, which, according to him, instituted the appeal to this court. An effort to trace the notice of appeal was made to no avail, hence this application.

Replying, the senior State Attorney conceded to the application, stating that the reasons adduced were sufficient since the applicant was under the supervision of a prison officer.

The issue is whether the application has merit.

It is trite law that in an application for an extension of time, the applicant must show a reasonable cause for delay.

In the present case, the applicant demonstrated that he wasted no time in pursuing the right of appeal. Upon perusal of the application and the trial court's records, I noted that immediately after delivery of judgment and pronouncement of sentence, the applicant registered his notice of intention to appeal. It is on record that the applicant timely applied for copies of the judgment and proceedings, which, unfortunately, were not supplied to him on time.

Having considered both the applicant's affidavit, especially in paragraphs 4, 5, 6, 7, and 8, and the concession from the respondent, the court finds it suitable to grant the application.

For the aforesaid reasons, the applicant has shown sufficient cause for an extension of time and the application is thus granted. The applicant must file a fresh notice of appeal within 10 days and a petition of appeal within 30 days from the date of this ruling.

Order accordingly.



**A. BAHATI SALEMA**

**JUDGE**

**25/3/2022**

Ruling delivered under my hand and Seal of the court in Chamber this 25<sup>th</sup> day March, 2022 in the presence of both parties.



**A. BAHATI SALEMA**

**JUDGE**

**25/03/2022**

Right to appeal is fully explained.



**A. BAHATI SALEMA**

**JUDGE**

**25/03/2022**

