

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. CRIMINAL APPLICATION NO. 38 OF 2020

(Originating from Kaliua District Court in Criminal Case No. 36/2020)

NTALALI S/O MASUMBUKO.....APPLICANT

VERSUS

THE REPUBLIC .....RESPONDENT

RULING

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

**BAHATI SALEMA, J.:**

The applicant, **Ntalali Masumbuko** herein lodged this application under the provisions of Section 361(2) of the Criminal Procedure Act, Cap. 20 [R.E 2019]. It is supported by an affidavit sworn by the applicant.

The applicant is praying for the following orders:

- 1. This Honourable Court pleased to grant an extension of time to file a petition of appeal*

*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 unrepresented while Mr. Miraji Kajiru, Senior State Attorney for the Republic.

In his submission, the applicant prayed for this court to adopt his affidavit to form part of the submission. The affidavit in support of the application reveals that; the applicant is dissatisfied with the decision of the trial district court of Kaliua for conviction and sentence of fourteen years imposed on him for the offences of breaking a house with the intent to commit an offence contrary to section 294 (1) of the Penal Code, Cap. 16 [R.E. 2019] and stealing contrary to sections 258 and 268 of the Penal Code, Cap. 16 [R.E. 2019]. That, the reason attributed to delay, may be summarized as follows: after being convicted and sentenced on 24/2/2021 and entering prison at Urambo Remand Prison, he expressed his intention to appeal very soon before the prison officer at Urambo Remand Prison. On 2/3/2021 he filed the said notice of intention to appeal, and he handed it to the prison officer for forwarding to the High Court of Tanzania, Tabora. That, the cause of delay in lodging the petition of appeal was due to the District Court for failure to issue his copy of the judgment. As a result, the delay.

In reply, the Senior State Attorney, Mr. Kajiru Miraji did not object to application for an extension of time since grounds No. 3 and 4 are sufficient grounds.

Having heard from both parties, the question is whether the application has merit.

It is trite law that in an application for 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 perusing the application and the trial court 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.

In view of these reasons, I am convinced that the applicant did not idly sit on his right of appeal but rather employed the necessary efforts to meet the ends of justice. For the aforesaid reasons, the applicant has shown sufficient cause for an extension of time and the application is thus granted. The applicant is to file a notice of appeal within 10 days and a petition of appeal within 30 days from the date of this ruling.

Order accordingly.

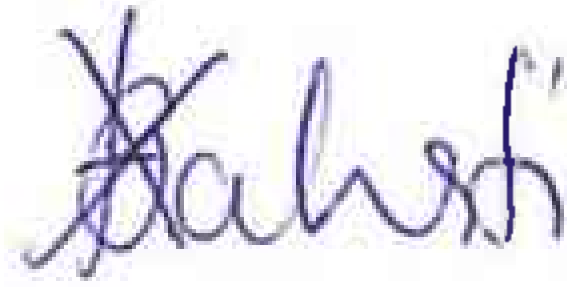


**A. BAHATI SALEMA**

**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**