

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

TABORA REGISTRY

AT TABORA

MISC. CRIMINAL APPLICATION NO. 25 OF 2021

(An Application for Extension of Time to lodge both the Notice and petition of Appeal out of time from the District Court of Urambo at Urambo from original criminal case no. 204 of 2020)

APRONIA MATHEWAPPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Date: 7/3/2022 & 11/3/2022

BAHATI SALEMA, J.:

The applicant, **Apronia d/o Mathew** 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 Apronia Mathew.

The applicant is praying for the following orders:

- 1. An application for extension of time to file both the notice and petition of appeal be granted*
- 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 represented by Mr. Amos Gahise, learned counsel while Ms. Juliana Mokha, Principal State Attorney for the Republic.

In his submission, the counsel for 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 was arraigned before the District Court of Urambo for the offence of grievous harm. Since it was her first time entering the corridors of justice, she was confused, and it is alleged that she entered a plea of guilty in respect of the offence and was sentenced to 7 years of imprisonment in jail.

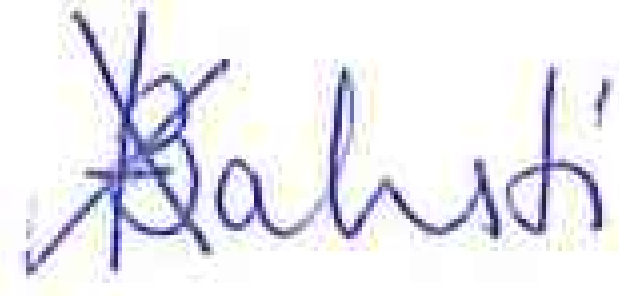
She was dissatisfied with the sentence and I prepared the notice of appeal and handled it to the prison officer at Nsenda prison to forward the same to the trial Court. But embarking on the said steps, and before the copy of the judgment was supplied, she was transferred to Mbeya prison from Nsenda prison. As a result of this transfer, she lost contact with the prison officer who was assisting her in lodging the appeal. While at Mbeya prison, she received the copy of her judgment from the trial court, and, by that time, the opportunity to appeal had already elapsed.

That the delay to lodge notice and petition of appeal was not deliberate and that the application is very important as the judgment sought to be challenged is tainted with injustices, irregularities, and illegalities and therefore affects his rights and will defeat the interests of justice if left to stand. To substantiate, he cited the cases of **Bank M TZ Limited, Enock Mwakyusa C.A, 520 2017, and Mrs. Mary Kahama, Attorney of Georgia, and Another Application No. 52/2017** on technical delay. He prayed to this court in the interest of justice that the prayers sought in the chamber summons be granted.

In her reply, the Principal State Attorney conceded to the application, stating that the reasons adduced were sufficient since the applicant was under the supervision of a prison officer.

Having considered both the applicant's affidavit, especially in paragraphs 4, 5, 6, 7, 8, and the concession from the respondent, the court finds it suitable to grant the application. I hereby grant an extension of time to lodge both the notice and petition of appeal within 21 days.

Order accordingly.



A. BAHATI SALEMA

JUDGE

11/3/2022

Ruling delivered under my hand and Seal of the court in Chamber this 11th day March, 2022 in the presence of both parties.

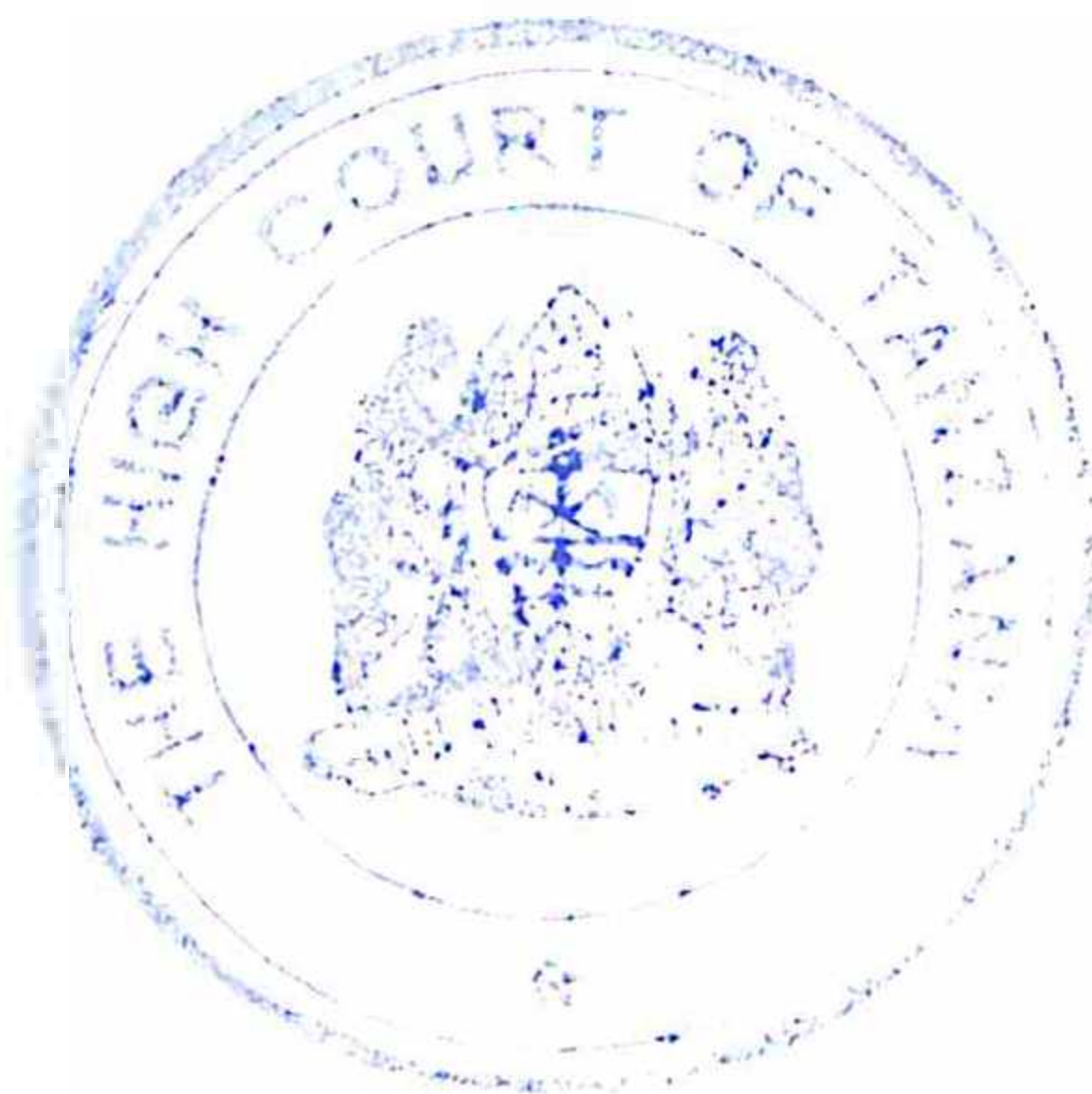


A. BAHATI SALEMA

JUDGE

11/03/2022

Right to appeal is fully explained.



A. BAHATI SALEMA

JUDGE

11/03/2022