

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**IN THE HIGH COURT OF TANZANIA**  
**(MTWARA DISTRICT REGISTRY)**  
**AT MTWARA**

**MISC. CRIMINAL APPLICATION NO 9 OF 2023**

*(Originating from P. I. Case No 14 of 2022 of the District Court of Masasi  
at Masasi)*

**FRANK JACKSON CHONJO .....APPLICANT**

**VERSUS**

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

**RULING**

*5/4/2023 & 08/05/2023*

**LALTAIKA, J.;**

The applicant herein **FRANK JACKSON CHONJO**, is charged with the offence of Manslaughter c/s 195 read together with section 198 of the Penal Code Cap 16 RE 2022. It is alleged that on the 1<sup>st</sup> day of October 2022 at **Chingulungulu Village within Masasi District** in Mtwara Region the accused (now applicant) did cause the death of one **MICHAEL S/O SAMSON MICHAEL**.

The applicant has brought this application for bail pending hearing and determination of the offence of manslaughter. The application is brought under section 18(1) and 248 (4) of the Criminal Procedure Act Cap 20 RE

2022. The application is supported by an affidavit sworn by the applicant on 28/3/2023.

Initially, the respondent Republic filed a counter affidavit, **dated 21<sup>st</sup> March 2022** (sic!) sworn by Ms. Florence Mbamba Anyosisye, learned State Attorney **on 21<sup>st</sup> March 2023** resisting the application. However, when the application was called on for hearing, Mr. Edson Laurence Mwapili, SA unwaveringly supported the appeal without making reference to the counter-affidavit hitherto filed by a fellow learned counsel.

Having noted the anomaly, this court deferred delivery of the ruling and ordered the learned counsel to address it on such irregularity. Mr. Melchior Hurubano; SA appeared for the respondent Republic this morning whereupon he prayed to withdraw the counter-affidavit alluded to. In preparing the ruling, Mr. Hurubano stated, it is the respondent's prayer that the court takes cognizance of the submission of Mr. Mwapili, SA delivered **on 5/4/2023**.

Having carefully scrutinized the application and ironed out the anomaly stated, I am inclined to exercise the role of this court to either grant or refuse the application with reasons thereof.

There is no doubt that the applicant is charged with an offence which is bailable. Nevertheless, it is the duty of this court to satisfy itself that granting bail to an accused may not interfere with investigation of the case (see section 148(1) of the CPA) and does not jeopardize the accused person's safety (see section 148(4) of the CPA). In the absence of such threats, bail remains the right of an accused person in light of the principle of

presumption of innocence. This was articulated by this court in **Patel vs. R**, (1979) HCD No. 391


*"Man, whilst awaiting trial is as of right entitled to bail, as there is a presumption of innocence until the contrary is proved. I would say that the court should be guided by four main principles on the granting of bail pending trial. The first and foremost is that the court should ask itself whether the accused would be available at the trial. Secondly, whether the accused is likely to commit further offence if he is allowed out on bail, in which case his character is certainly not irrelevant. Thirdly, whether the accused is likely to interfere with the investigation by influencing witnesses or otherwise, and fourthly, the gravity of the accusation and the severity of the punishment if conviction results."*

Bearing in mind the fact that the application has not been contested by the respondent and in line with the fact the accused is presumed innocent until proven guilty, I hereby grant this application under the following conditions:

1. Applicant shall have two sureties with introductory letters from the area of locality or from an employer
2. The sureties shall sign a bail bond of **TZS 5,000,000**
3. Each surety must demonstrate his or her necessary documents such as a Passport or National Identification or Driving Licence or Voter's Card and the sureties' particulars must be clearly recorded.
4. The applicant is prohibited to leave the jurisdiction of this court without a prior leave of the court


5. The applicant is to ensure that, he does not commit any offence while on bail, in the event he commits any offence he shall show cause as to why his bail should not be annulled.
6. Bail conditions set out herein above shall be ascertained by the Deputy Registrar (DR) of the High Court of Tanzania at Mtwara together with state attorney present.



  
**E.I. LALTAIKA**  
**JUDGE**  
**8/5/2023**

**Court:** Right of appeal in respect of the bail conditions fully explained



  
**E.I. LALTAIKA**  
**JUDGE**  
**8/5/2023**