

THE UNITED REPUBLIC OF TANZANIA
(JUDICIARY)

THE HIGH COURT

(MUSOMA SUB REGISTRY)

AT MUSOMA

Misc. CRIMINAL APPLICATION No. 17 OF 2023

IN THE MATTER OF APPLICATION FOR BAIL PENDING

DETERMINATION OF CRIMINAL SESSIONS CASE No. 49 of 2023

(Arising from the High Court [Musoma Sub Registry] in Criminal Sessions Case

No. 49 of 2023 & the District Court of Musoma at Musoma in P.I No. 11 of 2022)

1. DICKSON CHACHA @ MANYORI

2. EZEKIEL CHACHA @ MANYORI

..... **APPLICANTS**

Versus

REPUBLIC

RESPONDENT

RULING

03.08.2023 & 03.08.2023

Mtulya, J.:

Mr. Dickson Chacha @ Manyori and his young brother **Mr. Ezekiel Chacha @ Manyori** (the applicants) have approached this court praying for bail pending hearing and determination of the **Criminal Session Case No. 49 of 2023** (the case) filed in this court.

In their joint affidavit in support of the chamber summons, the applicants have produced three (3) reasons in favor of the application, namely: first, the applicants are persons of good behaviors; second, the applicants were granted bail and have not breached conditions at the **District Court of Musoma at Musoma**

(the district court) in **P.I Criminal Proceedings No. 11 of 2023** (the case); and finally, the applicants have reliable sureties to meet bail conditions in this court.

Today afternoon the applicants were summoned to appear in this court to explain the reasons in favor of the application. The applicants being lay persons and the second applicant being a child of tender age, had no details in their submissions. The first applicant submitted that he is student at **Mzumbe University** and currently attending Practical Training in Musoma and was granted bail at the district court in the case without any decline of bail conditions. He explained further that he is suffering from chest pains which need special attention. He finally prayed for bail to attend medication and practical training. The second applicant on his part submitted that he is taking his secondary education at **Bumaswa Secondary School** at Kiagata area of Musoma and prayed bail to attend his studies.

Replying the submission of the applicants, **Ms. Beatrice Mgumba** and **Ms. Agma Haule**, learned State Attorneys, for the respondent, did not protest the application for four (4) reasons, namely that: first, the applicants are students and may be granted bail to cherish their studies; second, the offence in which they are prosecuted is bailable; third, the second applicant is under eighteen (18) years of age; and finally, they have shown good behaviors at the district court during committal proceedings.

The law regulating bail in applications like the present one is enacted in sections 148 (1), (6) & (7), 392A (1) & (2) of the **Criminal Procedure Act** [Cap. 20 R.E. 2019] (the Act) and article 13 (6) (b) & 17 of the **Constitution of the United Republic of Tanzania** [Cap. 2 R.E. 2019] (the Constitution). The enactments have received precedent of this court in **Mwanaidi Nyahori & Another v. Republic**, Misc. Criminal Application No. 2 of 2022 and **Mchungu Charles v. Republic**, Criminal Session Case No. 107 of 2022. The interpretation of the indicated provisions and precedents had received further support in a bunch of precedents in **Simon Kiles Samwel @ K & Two Others v. Republic**, Criminal Session Case No. 50 of 2022; **Republic v. Emmanuel Paulo**, Criminal Session Case No. 38 of 2022; and **Mwita Juma @ Machango v. Republic**, Misc. Criminal Application No. 31 of 2022.

This is a court of justice and guided by the law in enactments and their associated interpretations in precedents. The indicated laws regulating the present application in sections 148 (1), (6) & (7), of the Act and article 13 (6) (a) of the Constitution have already received interpretation of this court in the cited precedent. This court will always cherish certainty and predictability of the decisions emanating from this court.

In the results, I am moved by the indicated enactments and precedents to grant the application for the applicants to enjoy

constitutional rights to freedom of movement, presumption of innocence, and right to education. However, in order to cherish the indicated rights, the applicants have to fulfill the following listed conditions:

1. Each applicant must sign bail bond to the tune of Tanzanian Shillings Three Million Only (3,000,000/=);
2. Each applicant must register two (2) reliable sureties who are able to execute bail bond amounting to Tanzanian Shillings One Million Only (1,000,000/=) each and must be in possession of National Identification Card issued by the **National Identification Authority** (NIDA) or if he is employed in government services, he must register work identification card;
3. The sureties must be residents of Mara Region and verify their stay in the region by presenting introduction letters from their respective hamlet or mtaa chairpersons;
4. The applicants should not leave Mara Region without prior written permission of the **Deputy Registrar** of this Sub Registry;
5. The applicants must report to the **Deputy Registrar** of this Sub Registry once on every last Monday of every Month;

6. The applicants must surrender their passport or any other travelling documents to the **Deputy Registrar** of this Sub Registry; and
7. Bail conditions set out in this Ruling are to be supervised by the **Deputy Registrar** of this Sub Registry.

It is so ordered.




F.H. Mtulya

Judge

03.08.2023

This Ruling was delivered in Chambers under the Seal of this court in the presence of **Ms. Beatrice Mgumba and Ms. Agma Haule**, learned State Attorneys for the respondent and in the presence of the applicants, **Mr. Dickson Chacha Manyori** and **Mr. Ezekiel Chacha Manyori**.


F.H. Mtulya

Judge

03.08.2023