

THE UNITED REPUBLIC OF TANZANIA
(JUDICIARY)

THE HIGH COURT
(MUSOMA SUB REGISTRY)

AT MUSOMA

Misc. CRIMINAL APPLICATION No. 18 OF 2023

IN THE MATTER OF APPLICATION FOR BAIL PENDING

DETERMINATION OF CRIMINAL SESSIONS CASE No. 52 of 2023

*(Arising from the High Court [Musoma Sub Registry] in Criminal
Sessions Case No. 52 of 2023 & the District Court of Rorya at
Rorya in P.I No. 7 of 2023)*

OTIENO OSOLE MANGASA @ JAPUNDA APPLICANT

Versus

REPUBLIC RESPONDENT

RULING

21.08.2023 & 21.08.2023

Mtulya, J.:

Mr. Otieno Osole Mangasa @ Japunda (the applicant) has approached this court praying for bail pending hearing and determination of the **Criminal Sessions Case No. 52 of 2023** (the case) filed in this court. In the affidavit duly sworn by the applicant's learned counsel, **Mr. Paul Binton Ogonoh Obwana** in support of the chamber summons, the applicant has produced three (3) reasons in favor of the application, namely: first, the applicant had previously enjoyed bail during committal proceedings in the **District Court of Rorya at Rorya** in **PI No. 7 of 2023** without any breach of the bail conditions; second, the offence of attempt to murder is bailable; and

finally, the applicant has reliable sureties to meet bail conditions that will be ordered by this court.

Today afternoon the application was scheduled for hearing and Mr. Obwana had appeared for the applicant. In his brief submission, he stated and explained the three (3) reasons indicated in his affidavit and prayed this court to grant the application. The prayer was not protested by the Republic enjoying legal representation of **Mr. Tawabu Yahya Issa** and **Mr. Jonas Kivuyo**, learned State Attorneys.

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. 2022] (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 the precedent of this court on 3rd August 2023 in **Dickson Chacha @ Manyori & Another v. Republic**, Misc. Criminal Application No. 17 of 2023.

There is also in place a large docket of precedents of this court in support of the move (see: **Mwanaidi Nihari & Another v. Republic**, Misc. Criminal Application No. 2 of 2022; **Mchungu Charles v. Republic**, Criminal Session Case No. 107 of 2022; **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**,

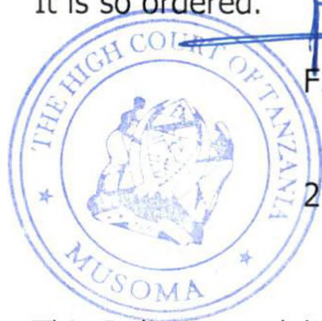
Misc. Criminal Application No. 31 of 2022).

Following the indicated enactments and practice of this court, I am persuaded to grant the application for the applicant to enjoy presumption of innocence and freedom of movement. However, in order to cherish the indicated rights, the applicant has to abide with the following enumerated conditions, *viz*:


1. The applicant must sign bail bond to the tune of Tanzanian Shillings Three Million Only (3,000,000/=);
2. The 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 applicant should not leave Mara Region without prior written permission of the **Resident Magistrate In-Charge of the District Court of Rorya at Rorya**;
5. The applicants must report to the **Resident Magistrate In-Charge of the District Court of Rorya at Rorya** once on every last Monday of every Month;

6. The applicant must surrender his passport or any other travelling documents to the **Resident Magistrate In-charge of the District Court of Rorya at Rorya** or **Deputy Registrar** of this Sub Registry; and
7. Bail conditions listed in this Ruling are to be supervised by the **Deputy Registrar** of this Sub Registry.

It is so ordered.



F.H. Mtulya
Judge
21.08.2023

This Ruling was delivered in Chambers under the Seal of this court in the presence of **Mr. Tawabu Yahya Issa** and **Mr. Jonas Kivuyo**, learned State Attorneys for the respondent and in the presence of **Mr. Paul Obwana**, learned counsel for the applicant, **Mr. Otieno Osole Mangasa @ Japunda**.


F.H. Mtulya
Judge
21.08.2023