

**UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**HIGH COURT OF TANZANIA**

**BUKOB SUB REGISTRY**

**AT BUKOBA**

**MISC. CRIMINAL APPLICATION NO. 2727 OF 2024**

*(Origination from the Criminal Case No. 117 of 2023 of Misenyi District Court by  
Hon.A.G.B.Myombo SRM)*

**REVOCATUS FAUSTINE ..... APPLICANT**

**VERSUS**

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

**RULING OF THE COURT**

Date of last Order: 11/03/2024

Date of Ruling: 11/03/2024

**BEFORE: G.P. MALATA, J**

The applicant herein has preferred an application for extension of time seeking to file notice of appeal and appeal out of time against the decision in Criminal Case No. 117 of 2023 of Misenyi District Court delivered on 30/11/2023.

On 11/03/2024 when this matter came for mention only the respondent appeared and the convict/applicant was not brought to court by the prison officers. On the other hand, Ms. Alice Mutungi learned State Attorney did not oppose the application, but merely informed the court that, she was satisfied

with the reasons advanced by the applicant on his failure to pursue the appeal within time.

It is trite law that, extension of time is granted by the court discretionary upon being satisfied by the reason so advanced by the applicant. This is the gist of section 361 (2) of the Criminal Procedure Act, Cap. 20 R.E 2022 which provides that;

*"The High Court **may** for **good cause**, admit an appeal notwithstanding that the period of limitation prescribed in this section has elapsed".*

Having gone through the reasons advanced in the application, I am satisfied beyond sane of doubt that; **first**, the applicant was convicted of rape and sentenced to thirty (30) years imprisonment, **second**, the applicant was transferred from Bukoba prison to Kitengule prison that is why he failed to appeal on time, **third**, the applicant is toothless to command the prison officers to take any necessary steps timely in appealing against the impugned decision, **fourth**, the prison officers are the ones mandated to take up and make follow ups for the convicts including filing notices, requesting for copies of proceedings and judgment, preparing appeal and filing it in court. The applicant being unfree agent cannot do any of the above save through the prison officers.

In the event therefore, this court is without malingering of doubts that, the applicant has vehemently advanced sufficient reasons for delay in filing notice of appeal and appeal to this court.

Consequently, I hereby grant leave to the applicant to file notice of appeal and appeal against the decision in Criminal Case No. 117 of 2023 of Missenyi District Court on condition that, he file **notice of appeal** and **appeal** to this Court within **thirty (30) days** from the date of this ruling.

**IT IS SO ORDERED.**

**DATED** at **BUKOB**A this 11<sup>th</sup> March, 2024.



G.P. MALATA

**JUDGE**

11/03/2024

**RULING** delivered at **BUKOB**A this 11<sup>th</sup> March, 2024.



G.P. MALATA

**JUDGE**

11/03/2024