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**THE UNITED REPUBLIC OF TANZANIA
(JUDICIARY)**

THE HIGH COURT

(MUSOMA SUB REGISTRY AT MUSOMA)

CRIMINAL APPLICATION No. 16474 OF 2024
*(Arising from the High Court [Musoma Sub Registry] in Criminal
Sessions Case No. 513 of 2024 & the District Court of Tarime at
Tarime in Preliminary Inquiry Case No. 35 of 2023)*

J. 4020 PC EUSTACK JULIUS MANYORI APPLICANT

Versus

REPUBLIC RESPONDENT

RULING

26.06.2024 & 27.06.2024

Mtulya, J.:

Mr. Juma David Mwita, learned counsel for **J. 4020 PC Eustack Julius Manyori** (the applicant) appeared in this court yesterday afternoon praying for release of the applicant on bail for two reasons, namely; first, the offence of which the applicant is prosecuted is bailable; and second, the applicant had enjoyed bail in **District Court of Tarime at Tarime** (the district court) in **Preliminary Inquiry Case No. 35 of 2023** (the case) without breach of any condition.

According to Mr. Mwita, bail is a constitutional right and normally granted to accused persons to enjoy freedom of movement, liberty and presumption of innocence. In substantiating his submission in favor of the application, Mr. Mwita cited the enactment of articles 13 (6) (b) & 17 (1) of the

Constitution of the United Republic of Tanzania [Cap. 2 R.E. 2002] (the Constitution) and sections 148 (1) & 192A (1) & (2) of the **Criminal Procedure Act [Cap. 20 R.E. 2022]** (the Act). In producing precedents regulating bail cases, Mr. Mwita cited the decision in **Hussein Juma Mzuzu & Fourteen Others v. Republic**, Criminal Application No. 29 of 2020, contending that when offences are bailable, this court has no options rather than to grant the application.

In his submission, Mr. Mwita stated that the applicant is prosecuted for manslaughter under sections 195 and 198 of the **Penal Code [Cap. 16 R.E. 2022]** (the penal Code), which is a bailable offence and he was committed to this court by the district court since 13th June 2024. Mr. Mwita submitted further the district court had cancelled bail to the applicant after committing him to this court hence this court has mandate to resolve the application pending determination of **Criminal Sessions Case No. 513 of 2024** (the session).

The submission of Mr. Mwita was supported by **Mr. Felix Mshama**, learned State Attorney, who appeared for the Republic. In his submission in support of the move, Mr. Mshama stated that the applicant is charged with bailable offence hence there is no reason to protest the application, save for bail conditions that shall be listed down by this court for the applicant to comply.

I scanned the record of the present application and found that the applicant is prosecuted for allegation of manslaughter of **Mr. Novatus Peter Joseph** (the deceased) contrary to sections 195 and 198 of the Penal Code. The incident is alleged to have occurred on 31st day of July 2023 at Kewanja Village within Tarime District in Mara Region. The offence of manslaughter, as enacted in section 195 and 198 of the Penal Code, is a bailable offence under sections 148 (1), (6) & (7) of the Act. The provisions of the indicated law have been considered in a bunch of decisions of this court (see: **Simon Kiles Samwel @ K & Two Others v. Republic**, Criminal Session Case No. 50 of 2022; **Emmanuel Nguka @ Anditi v. Republic**, Misc. Criminal Application No. 25 of 2023; **Maruru Zabron v. Republic**, Misc. Criminal Application No. 24 of 2023; and **Zilipa Makondoro v. Republic**, Criminal Sessions Case No. 63 of 2023)

Having said so, I do not see any reason why the applicant should not be granted bail, as I hereby do so. However, practice shows that once a person is granted bail, the court shall list down bail conditions. If such person fails to meet the listed conditions, he will have no options but to be deprived his freedom of movements. This is not because the offence is not bailable but because he cannot meet the conditions (see: **Prof. Dr. Costa Ricky Mahalu & Another v. The Hon. Attorney General**, Misc. Civil Cause No. 35 of 2007 and **Amos Jeremiah Kusaja & Eight**

Others v. Republic, Misc. Criminal Application No. 29 of 2023).

For the present applicant to enjoy bail, he has to fulfill the following conditions, namely:

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 service, 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 **Deputy Registrar** of this Sub Registry or **Resident Magistrate In-charge of the District Court of Tarime at Tarime**;
5. The applicant must report to the **Deputy Registrar** of this Sub Registry or **Resident Magistrate In-charge of the District Court of Tarime at Tarime**, once on every last Monday of every Month; and

6. The applicant must surrender his passport or any other travelling documents to the **Deputy Registrar** of this Sub Registry or **Resident Magistrate In-charge of the District Court of Tarime at Tarime.**

The listed bail conditions in this Ruling shall be supervised by the **Deputy Registrar** of this Sub Registry or **Resident Magistrate In-charge of the District Court of Tarime at Tarime.**

It is so ordered.



F.H. Mtulya

Judge

27.06.2024

This Ruling was delivered in Chambers under the Seal of this court in the presence of **Mr. Juma David Mwita**, learned counsel for the applicant and in the presence of **Mr. Felix Mshama**, learned State Attorney for the Republic.

F.H. Mtulya

Judge

27.06.2024