

**UNITED REPUBLIC OF TANZANIA
JUDICIARY**

HIGH COURT OF TANZANIA

BUKOBA SUB REGISTRY

AT BUKOBA

CRIMINAL APPLICATION NO. 2727 OF 2024

(Origination from the Criminal Case No. 117 of 2023 of Misenyi District Court)

REVOCATUS FAUSTINE..... APPLICANT
VERSUS

THE REPUBLIC..... RESPONDENT

RULING

Date of last Order: 16/02/2024

Date of Ruling: 16/02/2024

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 Missenyi District Court delivered on 30/11/2023.

On 16/2/2024 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. Matilda Assey 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 is a convict serving a custodial sentence, thus not a free agent, **second**, the applicant had no way to pursue for his right but to do it through the prison officers, **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 the **notice of appeal** and **appeal** to this Court within **thirty (30) days** from the date of this ruling.

IT IS SO ORDERED.

DATED at **BUKOBA** this 16th February, 2024.



G.P. Malata

JUDGE

16/02/2024

DELIVERED at **BUKOBA** this 16th February, 2024



G.P. Malata

JUDGE

16/02/2024

