

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE DISTRICT COURT OF ARUSHA**

**AT ARUSHA**

**MISC. CRIMINAL APPLICATION NO. 112 OF 2021**

(Originating from Criminal Sessions Case No. 117 of 2020 in the High Court of Tanzania  
Arusha Registry)

**RAMADHANI S/O ISSA @ MOHAMED.....1<sup>ST</sup> APPLICANT**

**GERALD S/O PAUL @ RUTU.....2<sup>ND</sup> APPLICANT**

**VERSUS**

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

**RULING**

**22/12/2021 & 23/12/2021**

**GWAE, J**

The applicants named above who are under the legal services of **Mr. Sylvester Kahunduka and Mr. Simon Mbwambo** (advocates) have brought this application for bail. It is under the certificate of urgency. The application is brought under section 148 (1) of the Criminal Procedure Act Chapter 200 Revised Edition, 2019 (CPA) seeking for the orders that, this Court be pleased to grant and release the applicants on bail pending the final hearing and determination of the Criminal Session No. 117 of 2020.

The application is further supported by an affidavit of the applicant's counsel, Mr. Kahunduka which is to the effect that, the applicants were initially charged with an offence of murder, however on the 24<sup>th</sup> September 2021, the respondent amended the charge of murder replacing it with a lesser offence of Manslaughter contrary to section 195 and 198 of the Penal Code, Chapter 16, Revised Edition, 2019.

Being the offence, the applicants are now charged with is a bailable, hence this application. In his affidavit Mr. Kahunduka averred that, the applicants have no previous criminal records and that, they are the bread winners to their respective families whom they depend on them. It is also declared that, the applicants have reliable sureties who are willingly to execute bail bond at the terms and conditions to be set by this court and that, the applicants who reside and work for gain at Ngarenanyuki within Arumeru District in Arusha region, will assure their appearance whenever required.

At the hearing of the application the applicants were represented by Mr. Kahunduka assisted Mr. Mbwambo, both learned advocates. The respondent on the other hand was represented by the learned state attorney Mis. Alice Mtenga who did not object the application.

According to the charge dated 20<sup>th</sup> August 2021 the applicants are charged with an offence of manslaughter contrary to section 195 and 198 of the Penal Code Chapter 16, R.E, 2002 where it is alleged that the applicants together with another person one Jimmyrest Gerald @ Lutu on 5<sup>th</sup> January 2020 at Ngarenanyuki area within Arumeru District jointly and together did unlawful cause death of one Seleman s/o Rashid.


It is with no doubt that, the offence to which the applicants are charged with is a bailable offence under the provisions of section 148 (1) of the CPA. I have also taken into consideration the affidavit of the applicants and see no reason as to why I should decline granting this application. I say so for an obvious reason that, there is no evidence that the applicants will interfere with the police investigation or their lives may be endangered while in bail. Similarly, it has been a well cherished principal of the law that a person is presumed guiltless until proved.

Basing on the above reasons, this court is bound to grant the bail sought on the following conditions pursuant to the provision of section 148 (6) of the CPA;

1. Each applicant to have two sureties with introductory letters from the area of locality or from their employer(s).

2. Each surety shall sign a bail bond of Tshs. 5,000,0000/=.
3. Each surety must have either Passport or National Identity or Driving Licence or Voter's Card and the sureties' particulars must be clearly recorded.
4. The applicants shall only leave the jurisdiction of this court upon an application for and grant of leave of the Court or subordinate court as the case may.
5. That, the applicants are to ensure that, they do not commit any offence while on bail, in the event they commit any offence they shall show cause as to why their bail should not be cancelled.
6. Bail conditions set out herein above shall be strictly assessed by the Deputy Registrar of the Court together with a State Attorney present.

It is so ordered.

  
**M.R. GWAE**  
**JUDGE**  
**23/12/2021**

**Court:** Right of appeal explained in respect of the bail conditions set out herein above



  
**M.R. GWAE**  
**JUDGE**  
**23/12/2020**