

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UDAND AT JINJA
MISC. APPLICATION NO. 14/95
ORIG. CRIMINAL MJ. 579/95-JINJA COURT

TENYWA JAMES APPLICANT

VERSUS

UGANDA RESPONDENT

BEFORE: THE HONOURABLE JUSTICE C.M. KATO

RULING

This is an application by the applicant Tenywa James for bail. He is charged with the offence of defilement c/s 123(1) of the Penal Code Act. The application is by notice of motion dated 11-8-95; although it does not say so it would it would seem that it was brought under the provisions of section 14A of the TID as amended by statutes 5 and 6 of 1990. The application is supported by a joint affidavit sworn by Mugira John and Waiswa Patrick dated 31-7-95.

The main ground for this application is that the applicant suffers from High Blood pressure as a result of which he has heart failure. In his argument the learned counsel who appeared on behalf of the applicant added yet another ground for the application which is that the applicant is a juvenile; this last ground does not appear on the notice of motion so I will ignore it.

By provisions of section 14A if TID this court can only release somebody charged with defilement on bail if he proves that special circumstances exist. One of the special circumstances listed is grave sickness. In the present case the applicant has produced a medical report which shows that he had an attack of the heart in the form of palpitation for which he was being treated. I agree with the learned counsel for the applicant that heart disease can be serious and may not be easily treated under prison conditions.

Considering the fact that the applicant suffers from heart failure and in view of the fact the state does not oppose his being released on bail, I do grant this application and order that the applicant be released on bail on the following conditions:

1. That he deposits cash of 100,000/= with court.
2. The two sureties in the names of Sonsani Kalikumadi and Crispi John Mugira sign a bond of 200,000/= each not cash.
3. That the applicant is to report to the Chief Magistrates court at Jinja once in a month for extension of his bail starting from 30-11-95 until another lawful order to the contrary has been given.
4. Failure by the applicant to adhere to the above conditions will result in cancellation of his bail unless a satisfactory explanation has been given for such failure.

C.W. KATO

JUDGE

30-10-1995