

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT GULU**  
**HCT 02 – CO – MA – 0038 - 2008**  
**HCT – 02 – CO – MA – 0039 – 2008**  
**(Both arising from Criminal Case No. AA. 243/2007)**

**1. COL. ONEN KAMUDULU ALFRED**

**2. AYELLA PATRICK:.....APPLICANTS**

**VERSUS**

**UGANDA:.....RESPONDENT**

**BEFORE: HON. JUSTICE REMMY K. KASULE**

**RULING**

This Ruling is in respect of two applications for bail: No. 38 of 2008: Col. Onen Kamudulu Alfred versus Uganda, with the two named persons as applicants, and No. 39/2008 Ayella Patrick:

Five (5) other persons are charged with the two applicants in Gulu Grade I Court Criminal Case No. 117 of 2008 of the charge of Robbery with aggravation c/s 285 and 286(2) of the Penal Code (Amendment) Act, 2007.

The offence is stated to have been committed on 22.10.2007 at Aganga village, Akokoro Sub-county, Apac District.

The maximum sentence for the offence is death.

Both applicants were charged in court on 9.11.2007 and have been on remand since then, and on 10.04.2008 they were committed to the High Court for trial.

Each of the applicants has satisfied court of the fact of having permanent residence, not having other criminal charges pending against each one in some other court, of the fact that each one has the obligation to support family and relatives and of having substantial sureties to stand bail for each one.

The applicants enjoy the constitutionally presumption of innocence and are also constitutional entitled to receive a fair and speedy trial.

There is also no evidence adduced before court that any of the applicants has interfered or will interfere with the investigations or any witnesses if released on bail.

The offence of aggravated robbery with which the applicants are charged is a very serious one. That is why the Trial on Indictments Act requires that for one charged with the offence has to prove an exceptional circumstance before being released on bail: see sections 14 and 15 of the Trial on Indictments Act.

None of the applicants has proved an exceptional circumstance.

It remains therefore for this court to determine whether, in the exercise of its discretion, each of the applicants, or one of them, deserves to be granted bail: See **Constitutional Court Reference No. 20 of 2005 Uganda (DPP) vs Col. Rtd Dr. Kiiza Besigye, and Constitutional Court Constitutional Reference No 20 of 2006: Foundation For Human Rights Initiatives vs. Attorney General.**

In the judgment of this court, none of the applicants has put forward such an overall set of circumstances, beyond the normal, for this court to exercise its discretion by granting bail to each of the applicants or one of them.

The application for bail fails on the part of each of applicants: Both Miscellaneous Application No. 38 of 2008 and 39 of 2008 stand dismissed.

The applicants are to continue to be on remand; pending their trial, or until court orders otherwise.

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Remmy K. Kasule

Judge

22<sup>nd</sup> May 2008.