

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT GULU
HCT – 02 – CO – MA – 0001 – 2008
(Arising from Criminal Case no. 492 of 2007)

OPIO BUA JAMES :::APPLICANT

=VERSUS=

UGANDA:::RESPONDENT

BEFORE: HON. JUSTICE REMMY K. KASULE

RULING

The applicant applies for bail pending his trial for aggravated armed robbery and unlawful possession of ammunition.

The state, though served, did not appear in court to support or oppose the application.

The applicant is a police officer attached to Kangai Police outpost. He was the second in-charge of the out post.

The charges of aggravated armed robbery and unlawful possession of ammunition are very serious charges.

The applicant has not availed to court, through his supporting affidavit, any copy of the charge sheet. The court is thus totally left in the dark as to the particulars of the charges.

It is claimed that the applicant had been released on police bond which he was honouring before being charged. The evidence as to this is contradictory. Paragraph 3 of his supporting affidavit states that he was first arrested on 28.11.2007 and released on police bond on 04.12.2007. Yet in paragraph 4 of the same affidavit he avers that he was re-arrested on 02.12.2007; a date when he was already under arrest according to paragraph 3 of his affidavit. There is no explanation as to how he could be re-arrested on 02.12.2007 when he was already under arrest from 28.11.2007 up to 04.12.2007 when he was released on police bond.

In his affidavit, there is no explanation as to what happened to his police bond form. From the bar, applicants counsel claimed that the police bond paper was taken away from the applicant by DIP Odwe of Lira Central Police station. This is a serious allegation against a senior police officer and therefore the applicant ought to have made it on oath in his supporting affidavit so that its veracity is tested.

The applicant has not proved any exceptional circumstance as he is required to do so by section 15 of the Trial On Indictments Act, Cap.23.

In the absence of an exceptional circumstance, the applicant has the further burden of convincing court as to why the court should exercise its discretion and grant bail to him. Such a burden cannot be said to have been discharged when the applicant leaves the court in the dark as to the particulars of the offence and also when the averments in the supporting affidavit are contradictory and thus not reliable.

This application for bail fails.

The same stands dismissed.

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Remmy K. Kasule

Judge

12.02.2008