

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT MBARARA**  
**MISCELLANEOUS CRIMINAL APPLICATION No. 56 OF 2019**

**(Arising from H.C Cr. Case. No. 0034 of 2018)**

- 1. NASASIRA HANNINGTON**
- 2. NATURINDA JULIUS**
- 3. KWEBUZA NATHAN:.....APPLICANTS**

**VERSUS**

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

**BEFORE: HON JUSTICE SSEKAANA MUSA**

**RULING**

This is an application for bail pending trial of the applicants who are charged with the offence of murder contrary to sections 188 and 189 of the Penal Code Act Cap 120. The applicants are alleged to have murdered Sekatawa Richard alias Muganda on the night of 30<sup>th</sup> – 31<sup>st</sup> July 2018 at Kyabahaija Cell in Sheema District.

Grounds are set out in the motion and supporting affidavits of respective applicants. Briefly, the grounds are:-

1. The applicants believe in their innocence and have no fear for the outcome of their pending trial: a mere treachery by a cruel and insensitive Ugandan Police.
2. The applicants were nowhere near the alleged scene of the crime: were too entrenched in bottling to save the life of their harked mother even to know what was happening to the would be murderer; now the deceased.

3. The applicants have a fixed place of abode at Kabakaiha Runyinya Kigarama Sheema District within the jurisdiction of this Honourable Court.
4. The applicants are law abiding citizens and have no previous criminal record.
5. There are no other criminal charges pending against the applicants.
6. The applicants will present reliable and substantial sureties who will guarantee that applicants reports whenever required by court.
7. The applicants will not abscond when released on bail.

According to **Article 23 (6) (a) and 28 (3) of the Constitution of the Republic of Uganda**, persons accused of criminal offences have a right to apply for bail. However, the grant of bail is discretionary to the court (*see Uganda vs Kiiza Besigye; Const. Ref No. 20 OF 2005*).

It is trite law that under **Article 28(3) of the Constitution of the Republic of Uganda**, every person is presumed innocent until proved guilty or pleads guilty. Consequently, an accused person should not be kept on remand unnecessarily without trial. In well deserving cases the accused person should be granted bail if he or she fulfils the conditions for his or her release. An Applicant should not be incarcerated if he or she is unlikely to abscond or interfere with witnesses for the prosecution, has a fixed place of abode, has sound sureties capable of guaranteeing that he or she will comply with the conditions of his or her bail and is willing to abide by all other conditions set by the court.

In this case, the first applicant pleads his innocence against the alleged crime, has a fixed place of abode and has presented substantial sureties who court find satisfactory to ensure the applicants appearance in court whenever need be. The court finds it deserving to grant him bail.

The second applicant states in his affidavit that he has a fixed place of abode but however presented only one surety. I concur with the state's counsel that it will be difficult to trace the applicant in case he jumped bail.

The third applicant under paragraph 7 of his affidavit states that he has a permanent place of abode at Itejero, Karera Ward kasozi Division Sheema District but presented a surety who lives in Kabakaiha village Runyinya Parish.

Sureties must be persons of integrity, mature and have close geographical and where possible blood proximity to the applicant. This court does not find the 3<sup>rd</sup> applicants surety substantial to ensure the applicant's attendance of the trial thus hesitant to grant him bail.

I decline to grant bail to the 2nd and 3rd applicants because of failure to present substantive sureties increases chances that they will abscond or jump bail.

Bail is granted to the 1<sup>st</sup> applicant on the following terms;

1. He will pay Shs. 2,000,000/= in cash to the Court.
2. The sureties shall execute a non cash bail of Shs. 5,000,000/- each.
3. The applicant is to report to the Registrar of this Court at least once every month for the entire duration of his trial effective from the date of release on bail.

I so order.

**SSEKAANA MUSA**  
**JUDGE**  
**24<sup>th</sup> January 2020**