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5 National Identity Card No. CM78019100TCYJ. The surety is a son of the Applicant. The surety stated that he has approximately seven acres of land within his area of residence. A letter by LC 1 Vice Chairperson of the area, a one Okee Michael was presented to court (the area LC1 Chairperson, Ongom Benson, reportedly being sick.)

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The Second Surety is Aluku Florence, with National ID. No. CF780851011G2K, a spouse of the Applicant, resident of Agweng village, Pajimo parish, Akwang Sub County, Kitgum District. She also presented a letter by the LC 1 Vice Chair Person, introducing her to court. Both
15 sureties explained their duties to court.

During the hearing, the State Attorney, Ms. Gertrude Nyipir did not oppose the application, conceding that the applicant is of advanced age (77 years), and did not object to the sureties either. Learned counsel for the Applicant,
20 Mr. Tonny Kitara submitted briefly, that court should find the sureties substantial, and should grant the Applicant bail.

Analysis and determination

I have carefully considered the grounds of the application and the sureties
25 presented. This is a rare matter where the State has for the first time, conceded that bail may be granted, given the applicant has satisfied an exceptional circumstance, being of advanced age. I have no doubt that the

5 Applicant is of advanced age. Although he did not produce his birth certificate or National Identity Card, court has believed the applicant that his age is what he told court. Court has also observed the applicant and is of the view that the Applicant is of the apparent age he told court. He is a Senior citizen and since the State counsel did not controvert the
10 Applicant's age of 77, court finds that the Applicant is of advanced age. He has therefore satisfied an exceptional circumstance imposed by section 15 of the Trial on Indictments Act Cap 23, which on the nature of the accusation (aggravated defilement) merited satisfaction, before a consideration to grant or refuse bail is taken by court.

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Court was addressed by learned counsel for the Applicant that the sureties are substantial. I have carefully considered the two sureties presented in court. The spouse of the Applicant, Aluku Florence (Flow as she is called in the area of her residence) said she has been married to the Applicant
20 for the last 15 years. I find Aluku Florence substantial, and competent to stand for her spouse as surety. She impressed court with her knowledge about the duties of a surety. The second surety, Onen Charles was similarly alive to his duties as a surety for his father. I find him substantial. As observed, the State did not doubt them. Court too does not doubt them.

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I must however emphasize that court still exercises discretion whether or not to grant or refuse bail, even where the State has conceded or opposed

5 bail application. Court still has to consider factors that regulate bail. This is because bail remains an agreement or recognizance between the accused (and his sureties, if any), and the court (not the State/ DPP), that the accused will pay a certain sum of money fixed by the court should he/she fail to appear to attend his/her trial on a certain date.

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In this case, considering that the object of bail is to ensure that the accused person appears to answer the charge against him, while outside the prison confinement, and thus the effect thereof is to temporarily release the accused person from custody, Court accepts that the applicant
15 has met conditions for grant of bail. Court is assured that the applicant will attend his trial, and that he and sureties will honor the bail terms and conditions. No factor against the grant on bail has been argued against the Applicant. In the exercise of my discretion, I find none either.

20 Given that the sureties have pledged to this court, guaranteeing that if the accused person does not appear before the court at the specified time and date, they will pay a certain sum of money (security) to the court, court is satisfied that the sureties will ensure that the applicant/ accused does not abscond. They will be obligated to court at all times, to explain to Court in
25 the event that the applicant/ accused is unable to attend court. They are further obliged to arrest the applicant/ accused if they have reason to believe that the accused/ applicant is about to abscond. If the applicant/

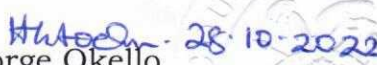
5 the accused absconds, the surety will be called upon to show cause why
their recognizance should not be forfeited or why they cannot be sent to
prison for a period court may determine and impose.


After giving this application conscious consideration, I allow the
10 application. Accordingly, bail is granted to Opige Joshua, the Applicant,
on the following terms;

1. The Applicant is granted non cash bail of UGX 5,000,000, given his
advanced age and having been on remand since 8th May, 2020, thus
15 not working.
2. The sureties shall execute a non cash bond in the sum of Ugx
5,000,000 each.
3. The Applicant shall report to the Deputy Registrar of this Court every
last week of each month on a working day, beginning November,
20 2022, for the entire duration of the criminal case No. AA 62/2020,
CRB 330/2020.

I so order.

25 Delivered, dated and signed this 28th October, 2022.


George Okello
JUDGE HIGH COURT



5 Ruling read in in the presence of;

Attendance

The Applicant.

Counsel Tonny Kitara for the Applicant.

10 Ms. Nyipir Gertrude Nyipir, State Attorney, ODDP for the State.
Ms. Grace Avola, Court Clerk.

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Handwritten: 28.10.2022
George Okello
JUDGE HIGH COURT

