

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

**CRIMINAL MISC. CAUSE NO.94 OF 2007 (Arising from Criminal Case No.557
of 2007 at Buganda Road Chief
Magistrate's Court)**

9

BETWEEN

HON. DR. ALEX KAMUGISHA;;;;;;;;;;;;;; : APPLICANT/ACCUSED

VERSUS

UGANDA :::::::::::::::::::: RESPONDENT/PROSECUTOR

RULING

The Applicant is charged before the Chief Magistrate's Court with Abuse of Office c/s 87(1) of the Penal Code Act. This offence is only bailable by this Court - see - S.75 (2) of the Magistrate's Courts Act.

An application such as this one can be made under S.75(4) (b) of the same Act.

This application was made under Article 23 (6) (a) and (b) of the Constitution (1995); and the Trial on Indictments Act. Both Counsel in their submissions referred to SS.14(1) and S. 15(1), (3) and (4) of the TIA. The offence of Abuse of Office is provided for under S. 15(2) (d) of the TIA.

S. 15(1) gives this Court discretion in considering exceptional circumstances.

The Applicant in this case relied on advanced age as an exceptional circumstance under S. 15(3) (c) of the TIA. To prove his advanced age the Applicant produced a copy of the 1st page of his Passport where it is stated that he was born on 10.7.1948. Counsel for the IGG Mr. Harrison Ahimbisibwe said that he had no comment on that evidence. This Court has repeatedly held that any age above 50 may be considered advanced age.

In Para. 5 of his affidavit, the Applicant deponed that he is aged 58 years.

I hold that the Applicant has proved sufficiently that he is of advanced age.

The Applicant deponed in his affidavit that he is married with a family of 10 children and other dependants. He has a fixed place of abode at Apollo Square in Entebbe. The Prosecution has not produced any evidence that he has ever jumped bail.

There are no other charges pending against him.

He has presented 3 Sureties, namely:

1. Hon. Professor Kasenene - a former Minister of State for Finance.
2. Hon. John Alimpa Kigyagi an MP for Mbarara Municipality.
3. Hon. Chris Baryomunsi - MP for Kinkizi East.

In my view these are substantial Sureties.

I hold that the Applicant has satisfied the requirements of S. 15(3) and (4) of the TIA.

He is a fit and proper person to grant bail.

I hereby grant him bail on the following conditions

- i. The Applicant is to enter into a bond with the Registrar (Crime) in an amount of Shs.3 Million not cash, guaranteeing that he will duly attend the Chief Magistrate's Court to answer the charge Preferred against him.
- ii. Each of the 3 Sureties presented to Court will also enter into a bond with the Registrar (Crime) in an amount of Shs.5 million Not cash guaranteeing that the Applicant will attend the Chief Magistrate's Court to answer the charge against him.
- iii. The Applicant must surrender to the Registrar (Crime) his Passport.
- iv. The Applicant, after his release on bail, must report to the Registrar (Crime) twice every month: On the first Friday and on the last Friday of every month;
- v. The Applicant should report to the Chief Magistrate's Court Buganda Road at Kampala on the date next fixed for mention of his case.

Order accordingly.

Hon. Justice Moses Mukiibi

JUDGE

25.5.2007