

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA - NAKAWA CIRCUIT
MISC. CRIMINAL APPL. NO 158 of 2014

FRED SSEKINDE SEGIRINYA ::

APPLICANT

VERSUS

UGANDA ::,;::::::::,;::

RESPONDENT

BEFORE : HON LADY JUSTICE ELIZABETH IBANDA NAHAMYA

RULING

This Application was brought under Article 23 (6) of the Constitution of the Republic of Uganda 1995 (as amended) and Section 15 of the Trial on Indictments Act Cap 23. The Applicant is charged with Murder contrary to sections 285 and 286 (2) of the Penal Code Act Cap. 20. It is alleged that Sekidde Segirinya Fred and others still at large on the 31st October 2013, at Plot No.13 Nambi Road, Entebbe Municipality in Wakiso District, with malice aforethought, unlawfully killed Engineer Balamu Bisitu Patrick.

The grounds of the Application are that the Accused is innocent and presumed so under the law until proved guilty. Furthermore that the Applicant suffers from a serious disease, Asthma which routinely develops into Pneumonia for which he cannot get adequate treatment in prison. The Applicant also states that he owns property at Anderita beach in Entebbe, which property is under threat of fraudulent alienation. The Application was supported by the Affidavit of the Applicant in which he depones that he is the sole provider of his family; he has a newly-wed wife who has just delivered their first born, and they both need his support. Furthermore that, he has

sound sureties who undertake to abide by the conditions of the Court if bail is granted. That it is the Applicant's right to be released on bail pending trial. At the hearing of this Application, the Applicant was represented by Ms. Sarah Awelo Asiiimwe who submitted that the Applicant has been on remand since 22nd July 2014, four months after the mandatory bail period. She pointed out that the Applicant was not able to apply for bail earlier because he had no lawyer and was only able to get one after committal. Counsel submitted also that the Applicant has a fixed place of abode in Nkumba and has sound Sureties.

Counsel for the Applicant proceeded to present two sureties. She presented Nakayenga Gertrude, aged 47 years, female residing at Mpunga village at Wakiso District for six years now. She is a business lady dealing in spare parts for motor vehicles. The surety informed Court that the Applicant is her step-son and she has known him for 20 years. The surety presented an LC.1 letter of Mpunga, Kasanganga village dated 8th April 2015 and a National ID Card No. 002345940. The second Surety presented was Ssempewo Stephen, aged 49 years, male residing at Mpunga, Wakiso. This surety is an electrician, and his wife is an Aunt to the Applicant, a biological sister to the Applicant's mother.

In reply, Ms. Kwezi Asiiimwe, the Learned State Attorney submitted that the Applicant has been on committal for 8 months, which shows willingness by the State to try the Applicant. She submitted that although the Applicant is not relying on exceptional circumstances, he should have these before bail is granted. She submitted that if the Court is to grant bail, then it should give stringent conditions for bail, for instance a cash amount that would be painful for him to meet.

While determining whether to exercise its discretion to grant or deny bail to any Applicant Court must consider whether the Applicant will turn up or

abscond from trial when released on bail. This question can be determined by considering the averments of the Sureties presented by the Applicant, *to wit* whether they are persons of substance and whether the Applicant has a fixed place of abode within the jurisdiction of the Court or is ordinarily resident in Uganda; whether the Applicant has on a previous occasion been granted bail, and absconded, whether there are pending charges against the Applicant. In the case before, I have underscored the need to protect society in light of a grave offence of murder as indicated by the Indictment.

The Deputy Registrar Nakawa High Court Central Circuit is enjoined to fix the main case for hearing on the earliest date possible.

Signed:.....

HON. LADY JUSTICE ELIZABETH IBANDA NAHAMYA

JUDGE

17th April 2015