

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA

HCT-00-CR-CM-0104-2020

(From HCT-00-CR-SC-0380-2020)

NDAGIRIMANA BLESSON ACCUSED/APPLICANT

VERSUS

UGANDA PROSECUTOR/RESPONDENT

BEFORE: HON. MR. JUSTICE J. W. KWESIGA

RULING:

Ndagirimana Blesson, hereinafter referred to as the Applicant, was charged and committed for trial by the High Court of Uganda for Aggravated Defilement C/s. 129(3) and (4)(a) of the Penal Code Act. He seeks release on bail pending trial pursuant to Article 23(b) of the Constitution of the Republic of Uganda and provisions of Trial on Indictments Act which give him the right to apply for bail and how it should be handled by this court.

Section 14(1) of the Trial on Indictments Act (Cap 23) states ***“The High Court may at any stage in the proceedings release the accused person on bail -----”***. However, the court must be satisfied that this will not compromise or prejudice interests of justice in the substantive trial. Interests of justice include interests of the accused, the victims, the families of both the accused and the victim, the community as a whole and the state whose duty it is to fight crimes and to enforce the Law.

Saied C.J (as he then was) put it well in **Livingstone Mukasa & Others Versus Uganda (1976)** **HCB 117** that in considering factors that would entitle the accused persons to be released on bail which are the considerations of Liberty of a person involved courts must give due consideration to the interests of justice. These must be balanced and neither ought to be sacrificed at the expense of the other.

In my view, the following are paramount consideration; whether the accused person will not abscond and frustrate the trial in any other way such as interfering with the evidence or witnesses of the state or whether he is a danger to society such that detention on remand pending trial becomes a solution. This must be balanced with the provisions of Article 28(3)(a) which settles that every person charged with a criminal offence, he is presumed not guilty. The tests to be applied have been set out in Section 15 of Trial on Indictments Act which include:-

- (1) Proof of the Accused person fixed place of abode within the jurisdiction of the court.
- (2) Substantial sureties or people to guarantee his return for trial.
- (3) Whether he has a history of breaching bail terms.
- (4) Whether he has other pending criminal cases.

I have examined this application for bail in light of the above legal provisions and I have particularly addressed my mind to the state objections, my finding are that, the following have been proved:-

1. The investigations have been completed and the Applicant has been committed and this rules out interference with investigations.

2. The Applicant has a fixed place of abode at Nsambya, Makindye Division, Kampala and is traceable.
3. Karimasi John Wilson and Tushabe Charles William have been found substantial sureties given that they are close relatives and those ties create a bond that will compel the Accused to respect the terms of bail lest he puts his relatives/sureties in jeopardy.

Considering all the above, I do hereby grant the Applicant bail pending trial on the following terms:-

- 1) The Accused/Applicant shall execute a **cash bail bond** of Ug. Shs. 2,000,000/= (Two Million Shillings only).
- 2) Each of the approved sureties shall execute a bond of Ug. Shs. 5,000,000/= (Five million shillings only) **NOT CASH.**
- 3) The Accused/Applicant shall keep reporting for bail extension by the Registrar, Criminal Division once a month with effect from 28th January 2021 until his trial is concluded.

J. W. Kwesiga

Judge

15/12/2020.

To be served on:-

1. Ms. Bainomugisha & Co. Advocates

For Applicant.

2. The Director of Public Prosecutions

For Respondent.