

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CRIMINAL DIVISION)
REVISION CAUSE NO.029 OF 2021
ARISING FROM WAKISO CR. AA NO.044 OF 2021
ALSO ARISING FROM CRIMINAL CASE NO.WAK-CO-1812-2020
ALL ARISING FROM WAKISO CRB 616 OF 2020
MUGERWA HAMIS-----APPLICANT
VERSUS
UGANDA-----RESPONDENT

BEFORE HON: JUSTICE ISAAC MUWATA

RULING

The applicant brought this application for revision seeking to set aside the decision of Her Worship Nakadama Esther in remanding him to Kigo Prison after being committed.

The background of this application is that the applicant was granted bail by Hon. Justice Michael Elubu on 14th March ,2022 vide Criminal Misc. Application No.186 of 2021.

When the applicant reported to the Chief Magistrate Court of Wakiso at Wakiso on the 16th day of June 2022 for mention of the matter as per the orders of the High Court, he was committed to the High Court and remanded on the orders that the bail granted by the High Court had lapsed

He has now filed this application for revision

Representation

The applicant was represented by Ms. Nampeera Juliet while Ms. Ainebyona Happiness was for the respondent

Consideration

It is trite law that bail once granted can only be lawfully cancelled upon satisfaction of the court that granted it that there has been a breach of the conditions set by it or of the law. **See: Uganda V Lawrence Luzinda [1986] H.C.B 33)**

The constitutional court in **Hon.Sam Kutesa and 2 others Vs Attorney General Constitutional Petition No.46 of 2011** has stated that;

"Where, therefore, a court of law, in the exercise of its judicious discretion as part of judicial power, decides to grant bail to a person arrested in respect of a criminal offence, it would be contrary to Article 126(1) of the constitution , for another court, by the authority of section 168(4) of the Magistrates Court Act, to override the decision granting bail by automatically lapsing the same on the sole ground that the person, the subject of the bail, is being committed to the High Court for trial.

Bail granted by a court of competent jurisdiction to a person arrested in respect of a criminal offence does not automatically lapse by reason only of the fact that the person has already been committed to the High Court for trial. Similarly, bail granted by the High Court cannot be cancelled by the Chief Magistrate who committed the applicant.

Accordingly, I order that the bail be reinstated on the terms as ordered by the Hon. Judge on the 14th of March 2022. The applicant having been committed for trial will now report to the Deputy Registrar of the Criminal Division in fulfillment of the terms imposed by the Hon. Judge

For avoidance of doubt, the terms of the previous bail shall be maintained. The applicant does not need to renew any of the terms.

I so order.

JUDGE

27/03/2023