

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

CRIMINAL MISC. APPL. No. 184 of 2024
(High Court Session Case No. 268 OF 2023)

OPIO BOSCO **APPLICANT**

Versus

UGANDA **RESPONDENT**

BEFORE: HON. MR. JUSTICE MICHAEL ELUBU
RULING

This application is commenced under Articles 23 (6) (a) and 28 (3) (a) of the **Constitution of the Republic of Uganda**; Sections 14 (1) and 15 (1) (b) of the **Trial on Indictments Act**; and Clause 10 (1) of **The Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions 2022**

The applicant, **Opio Bosco**, seeks an order that he be released on mandatory bail.

The grounds on which the application is based are set out in the Notice of Motion and elaborated in affidavit sworn by the applicant.

He states that he was charged with the offence of Murder contrary to Sections 188 and 189 of the **Penal Code Act** and as of March 2024 he had spent one year and

six months on remand. That he has been in detention on remand without committal. On this basis the applicant seeks a mandatory release on bail.

It has however been established from the court case management information system that the applicant was committed to the High Court and his High Court Session Case No. 287 of 2023.

Determination

This application is made on the premise that the applicant qualifies for mandatory bail. Because the applicant was charged with the offence of Murder c/s 188 and 189 of The PCA, which is only triable by the High Court, then the relevant provision of **the Constitution** is Article 23 (6) (c) which states that,

Where a person is arrested in respect of a criminal offence in the case of an offence triable only by the High Court, if that person has been remanded in custody for one hundred and eighty days before the case is committed to the High Court, that person shall be released on bail on such conditions as the court considers reasonable.

Clause 10 (1) of **The Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions 2022** reproduces the above article of the constitution.

This Court notes that the provisions are couched in mandatory terms.

The procedural provision is Clause 10 (3) of the above Guidelines which stipulates,

For the avoidance of doubt, mandatory release on bail for offences triable by the High Court under Article 23 (6) (c) of the Constitution shall be granted only by the High Court.

I have perused the court record and checked with the court case database, and established that indeed, the applicant has been committed to the high court for his

trial. The matter was entered in the court database as No 287 of 2023. The entry shows that the applicant was committed to the High Court on the 14th of June 2023. For release under Article 23 (6) (c) of **the Constitution** to be effected, the applicant should not have been committed to the High Court for trial. In view of the fact that he has now been committed, then he does not qualify for mandatory release on bail. For that reason, this application must fail and is dismissed.

A handwritten signature in black ink, appearing to read 'Michael Elubu', is written over a horizontal dotted line.

Michael Elubu

Judge

06.06.2024