



**JUDICIARY**

**IN THE HIGH COURT OF MALAWI**

**PRINCIPAL REGISTRY**

**MISCELLANEOUS CRIMINAL CASE NO. 148 OF 2008**

**MAKANIKO LANGTON**

**VERSUS**

**THE REPUBLIC**

**CORAM: THE HONOURABLE JUSTICE E. B. TWEA**

Miss S Mapemba, Counsel for the State

Mr Chiwoni, Representing the Accused

S. P. Moyo – Official Interpreter

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**R U L I N G**

**Twea, J**

This is an application for bail. The applicant filed an affidavit in support and also filed skeletal arguments. The State filed an affidavit in opposition.

The facts as deponed are not seriously disputed.

It is deponed that the applicant and his father went out for a drink. In the course of the drink they were allegations of witchcraft. There are accusations and counter – accusations as to who was accusing the other. Be this as it may, it is clear that a quarrel ensued which resulted in the applicant beating his father.

The deceased, who was the grandfather of the applicant, came onto the scene. The applicant deponed that she joined the fight because she felt insulted by the applicant who married a foreigner. The State deponed that she came in to restrain the applicant from assaulting his father. Be this as it may, it is not disputed that the applicant hit her with a pole on the forehead. When she fell down he hit her again at the back of the head and she died from the injuries sustained.

The applicant averred that he assaulted her in self defence because the pole was brought by her.

From the evidence, it is clear that the applicant was assaulting his father. It is also clear that the deceased came in, in order to restrain the applicant from assaulting his father. The affidavit evidence clearly shows that no one attacked the applicant when he started hitting the deceased. It cannot therefore be possibly true that all the villagers were attacking him. She did not do anything to provoke the applicant. As the mother and grandmother of the deceased and applicant respectively, she was under a duty, to restrain the applicant from further assaulting his father.

Clearly the deceased sustained the fatal injuries at the hands of the applicant. I agree with the State that it would not be in the interest of justice to release the applicant on bail.

Accordingly bail is denied.

***Pronounced in Chambers*** this 1<sup>st</sup> day of July, 2008 at Blantyre.

E. B. Twea  
**JUDGE**