



**JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
MISCELLANEOUS CRIMINAL CAUSE NO 181 OF 2008**

BETWEEN:

PANDE LAIMU 1ST APPLICANT

LYSON LAIMU 2ND APPLICANT

CLAMENCE LAIMU 3RD APPLICANT

-AND-

THE REPUBLIC RESPONDENT

CORAM: Hon. Justice M.L. Kamwambe
Mr. Kamunga of Counsel for the Applicants
Mr. Nyirenda of Counsel for the Respondent
N. Nyirenda, Official Interpreter

Kamwambe, J

RULING

This is an application for bail under section 118 of the Criminal Procedure and Evidence Code and section 42(2)(e) of the Constitution. The State objects to the application.

The brief facts of the case are that in the month of October 2005 the Applicants were participating in the Manganje traditional dance in their village. The first Applicant joined the

dance whilst others remained spectators. For some unknown reason a fight erupted between the deceased and the first Applicant. The second and the third Applicants joined the fight in defence of their brother. They however, claim that some other people joined the fight. The deceased was severely beaten and died several days later. The Applicants who were arrested in the month of November 2005 by Ndirande Police and handed over to Bangwe Police were at large for a while after the incident.

The State says investigations are through but they do not indicate whether they have the police docket or not this case being an old one. Even if the State refers to the ongoing homicide trials they do not have the police docket, they may not be ready soon for such trials. The docket should be able to indicate how or whether the crowd participated in causing the death to the deceased. We do not even know who started the fight. If anything the interest of justice is in favour of releasing the Applicants for the time being. But I am reluctant to do so till the State brings more affidavit evidence upon obtaining the police docket. The State should be able to make an informed decision of its own whether it is going to prosecute the Applicants and on what evidence. They are just assuming that since homicides are underway, unsteadily though, they will prosecute them even without looking at the police docket.

In view of the above I give the State two weeks to furnish the Court with more information and that this matter do come up again on the 9th day of September, 2008 at 8.30 am.

Made in Chambers this 20th day of August 2008 at Chichiri, Blantyre.

M.L. Kamwambe
JUDGE