

**IN THE HIGH COURT OF MALAWI**  
**LILONGWE REGISTRY**  
**MISC. CRIMINAL CASE NO. 20 OF 2008**

**BETWEEN**

**MIKE KADAM'MANJA ..... APPLICANT**

**- AND -**

**THE REPUBLIC ..... RESPONDENT**

**CORAM : CHOMBO, J.**

: Kita, Counsel for the Applicant  
: State representative, Absent  
: Baziliyo, Court Interpreter

**RULING**

The applicant for bail was supported by an affidavit and skeletal arguments. The State, though served with the notice of hearing was absent without any reasons being proffered.

The applicant is alleged to have been involved in a fight with the deceased which led to the deceased suffering bodily harm and eventually led to his death. The applicant has not been taken to a Court of law to be charged or to be dealt with by the law as stipulated by section 42(2)(b) of the Constitution. The affidavit in support states that ***“the continued detention of the Applicant is unlawful for which he deserves to be released---” (underlining supplied for emphasis)*** Whilst agreeing that even homicides are bailable offences sight must not be lost of the

fact that the said right is not absolute and more so in murder cases because of the seriousness of the offence. That, however, is not a license for the State to take a nap. There is need for the State to do the needful within the stipulated period. It is therefore ordered that within a period not exceeding 90 days the State should bring the applicant before a court of competent jurisdiction to be charged or dealt with according to law. In the event of the State failing to comply with this order within the stipulated 90 days the applicant will be granted bail on conditions that the court will deem fit.

**MADE** in Chambers this 25<sup>th</sup> April 2008.

E.J. Chombo  
**J U D G E**