

**IN THE HIGH COURT OF MALAWI
LILONGWE REGISTRY
MISC. CRIMINAL CASE NO. 27 OF 2008**

BETWEEN

NEPUTALI DAUDI APPLICANT

- AND -

THE REPUBLIC RESPONDENT

CORAM : CHOMBO, J.
: Nyirenda, Counsel for the Applicant
: State representative, Absent
: Baziliyo, Court Interpreter

RULING

An application for bail comes to me after the applicant has spent more than five years in custody waiting to be dealt with according to law. The State was absent at the hearing despite having been served with the notice of hearing.

At the time of commission of the offence, the applicant was a juvenile and now he is an adult. The State has not given reason for this inordinate delay in prosecuting the applicant. It must be borne in mind that every accused person is presumed innocent until the contrary is proved. The applicant's time is being unnecessarily wasted by the State's failure to take the appropriate action.

A detention, before trial of any period exceeding 24 months, in my view, is inappropriate. As the State was absent at the hearing there was no way of getting information as to the likely dates of when homicide matters are scheduled. It is therefore only right that the applicant's application be granted on the following conditions:

1. The applicant will report to Lilongwe Police Station once in every two weeks on a Wednesday before 12.00 noon.
2. The applicant must not leave Malawi without the written authority of Police at Police Headquarters in Area 30.
3. The applicant must provide two sureties who will each be bonded in the sum of K2,000 not cash.
4. The applicant must leave full details of his permanent address and place of abode.

The examination of the sureties is to be done within 21 days from the date of this order on a date to be fixed by the Registrar.

MADE in Chambers this 25th April 2008.

E.J. Chombo
J U D G E