



THE REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
MZUZU DISTRICT REGISTRY
MISCELLANEOUS CRIMINAL APPLICATION NO 74 of 2017
Bail Application

BETWEEN

Falesi Mtonga..... Applicant

-and-

The Republic Respondent

Coram:

The Honourable Justice D.A. DeGabriele

Mr Darlington Shaibu

for the State

Mr. Kadzipatike

for the applicant

Ms. Munthali

Official Interpreter

Mrs Chirwa

Court Reporter

DeGabriele, J

RULING

This matter comes for a bail application pursuant to section 12 of the Bail Guidelines Act, section 118 of the Criminal Procedure and Evidence code and section 42 (2)(e) of the Constitution of the Republic of Malawi. The applicant filed an affidavit in support of the application and the State filed an affidavit in response.

The applicant, who comes from Mteyo Ngoma Village, T/A Mbelwa in Mzimba District, was arrested and incarcerated since February 2017 on allegation that she committed a homicide. She is remanded in prison and she has not been

brought to trial and the State is not sure of the time when the applicant will be brought to trial. The applicant is seeking to be released on bail with or without conditions and as the Court deems fit. In their response the State does not object to the granting of bail, bearing in mind that the applicant has overstayed on remand. However, the State prays that strict conditions be set, which conditions will compel the applicant to attend trial.

Having heard submissions made in court and having read the affidavits as filed, I find that it is in the interest of justice that the applicant be granted bail on the following conditions:

1. The applicant must pay MK50,000.00 cash into Court;
2. The applicant must have two honest and reliable sureties with integrity, bonded at MK50,000.00 each, not cash;
3. The applicant must report at the nearest police once every two weeks, on Mondays before 12 noon;
4. The applicant should not leave his village without taking leave of the Officer in Charge of the said nearest police station where he will be reporting;
5. The applicant must surrender any travel documents to the High Court;
6. The examination of sureties will be done before the Registrar.

It is so ordered.

Made in Chambers this 30th day of November 2017


D.A. DEGASRIELE
JUDGE