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REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
ZOMBA DISTRICT REGISTRY
SITTING AT ZOMBA PRISON

MISCELLANEOUS CASE NO. 31 OF 2022

BETWEEN

FRANCISCO PETER APPLICANT

AND

THE REPUBLIC RESPONDENT

*Coram: Honourable Justice Violet Palikena-Chipao
Mr. M. Dallars, of Counsel for the Applicant
Mr. G. Msume, of Counsel for the Respondent
Ms. A. Kazambwe, Official Interpreter and Court Clerk*

RULING ON APPLICATION FOR BAIL PENDING TRIAL

1. The Applicants, Francisco Peter, is on remand at Zomba Maximum Prison on allegations of murder. He has asked the court for bail pending his trial.
2. The Applicant was arrested by Thonde police on 18th August 2015 on allegations of having caused the death of his wife.
3. The brief facts of the case as presented by the Applicant are that the Applicant went out for beer drinking with his in law and came back in the night but he did not check if his wife was around. Early in the morning, he asked his in-law about his wife and together they went to look

for her only to find her dead along Naliranji river. The Applicant was arrested on allegations of murder in connection with his wife. He has been in custody since then.

4. The Application was heard on 17th February, 2022 and the State asked for 2 weeks to file a response as at the time of the application, the State did not have sufficient information to respond to the application. The State was given up to 4th March to respond. The Applicant indicated that he had once appeared before a female judge during a camp court sitting at the prison but he was not released on bail.
5. When the court reconvened on 4th March 2022, the State indicated that they had failed to find any facts on the case and that the Police are failing to trace the file and left it to the court to give directions.
6. Every Accused person is entitled to be granted bail unless the interest of justice demands otherwise. In deciding whether or not it is in the interest of justice to grant bail, the Bail Guidelines Act in Section 3 under Part II on Bail by the Court Paragraph 4(a) to (d), lays down the following principles which the court should take into account;
 - (a) the likelihood that the accused, if released on bail, will attempt to evade his or her trial
 - (b) the likelihood that the accused, if he or she were released on bail, will attempt to influence or intimidate witnesses or to conceal or destroy evidence
 - (c) the likelihood that the accused, if he or she were released on bail, will endanger the safety of the community or any particular person or will commit an offence
 - (d) in exceptional circumstances, the likelihood that the release of the accused will disturb the public order or undermine the public peace or security
7. There is no suggestion by the State that the Applicant if released on bail may not make himself available for trial. Similarly there is no suggestion that the Applicant if released would tamper with witnesses or that his release may induce a sense of shock as to cause public outrage; or that the release may endanger the safety of the community.
8. If anything, in the absence of availability of information in relation to the Applicant, his continued detention means that he is likely to stay longer in custody before trial. This is not in the interest of justice considering that from the records, he has already stayed in custody for close to 7 years now without trial.
9. In the circumstances of the case, the interest of justice tilts in favour of granting bail as such, the court proceeds to grant bail on the following conditions;
 - a. Cash bond of K30, 000
 - b. Two sureties bonded in a non-cash sum of K100, 000
 - c. The sureties are to produce their national identities before the court
 - d. Applicant is to report for bail at the nearest police station Tuesday every fortnight
 - e. Applicant is to surrender travel documents to the court if any.

10. The State is directed to take all preliminary steps for the trial of the Applicant including committal proceedings and filing of disclosures within 120 days from today.

It is so ordered.

Pronounced in Chambers this 10th Day of March, 2022.



Violet Palikena-Chipao

JUDGE