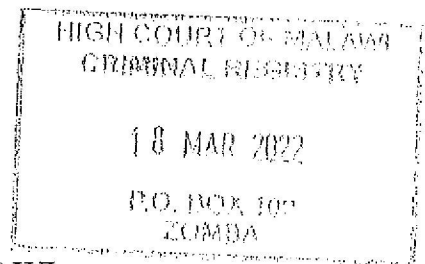
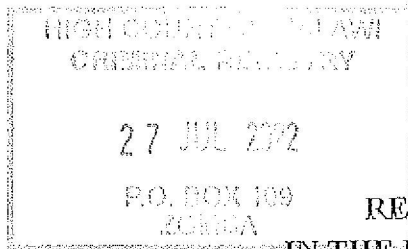


HIGH COURT  
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REPUBLIC OF MALAWI  
IN THE HIGH COURT OF MALAWI  
ZOMBA DISTRICT REGISTRY  
SITTING AT ZOMBA PRISON

MISCELLANEOUS CASE NO. 29 OF 2022

BETWEEN

MAXWELL CHILIMBA ..... APPLICANT

AND

THE REPUBLIC ..... RESPONDENT

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

RULING ON APPLICATION FOR BAIL PENDING TRIAL

1. The Applicants, Maxwell Chilimba, 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 Mangochi police in March, 2015 together with his wife on allegations of having caused the death of one Harrison.
3. The brief facts as presented by the Applicant are that the Applicant found the deceased in his house engaging in sexual intercourse. The Deceased fought with the Applicant and in the course of fighting, the Applicant stabbed the deceased with a knife as a result of which the deceased died. The Applicant was arrested and on 1<sup>st</sup> April, 2015 he was taken before the Magistrate court where he was formally charged of murder and was remanded to prison awaiting his committal and trial at the High Court.

4. The Application was heard on 17<sup>th</sup> 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 4<sup>th</sup> March to respond.
5. When the court reconvened, the State indicated that they had failed to trace the facts of the matter 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 10<sup>th</sup> Day of March, 2022.