



IN THE SUPREME COURT OF APPEAL SITTING AT BLANTYRE

MSCA Criminal Appeal No. 20 of 2016

(Being High Court of Malawi, Principal Registry, Crim Appeal No. 16 of
2014)

And

(Being Criminal Case No. 122 of 2014, Principal Resident Magistrates'
Court, Blantyre)

Between:

Jonathan Mekiseni.....1st Appellant/Applicant

Ditter Sitima.....2nd Appellant /Applicant

Jekapu Joseph.....3rd Appellant/Applicant

Hastings Mwinjiro.....4th Appellant/Applicant

And

The Republic.....Respondent

Coram: Honourable Justice A.C. Chipeta SC, JA

Maele, of Counsel for the Appellants/Applicants

Salamba, Principal State Advocate, of Counsel for the Respondent

Chimtande (Mrs)/ Masiyano (Ms), Court Clerks

RULING

The four applicants herein, namely Jonathan Mekiseni, Ditter Sitima, Jekapu Joseph and Hastings Mwinjiro, seek to be released on bail pending the delivery of their judgment in an appeal they already argued before this Court. They were initially tried and convicted of the offence of Robbery in the Principal Resident Magistrates' Court sitting at Blantyre, where they were sentenced to varying durations of imprisonment. The High Court, Principal Registry, subsequently dealt with the appeal they lodged against both convictions and the sentences and dismissed them all in their entirety.

Having lodged a further appeal to this Court, the applicant's sought bail pending appeal in the High Court. The application was dismissed. They then repeated that application before a single Judge of this Court. The application was likewise dismissed. Their appeal was then set down and heard on 13th June, 2017. On 21st March, 2019 judgment in the appeal was due to be delivered, but it was not delivered. Seeing that no other date has since been set down for the delivery of the judgment, and that by now some 37 months have gone past since the hearing of the appeal, they have taken up a second application before a single Judge of this Court for them to be considered for bail pending the delivery of the judgment they are still awaiting.

The application herein has been based on Section 24 of the Supreme Court of Appeal Act (Cap 3:01) of the Laws of Malawi as read with Order IV rule 2 of the Supreme Court of Appeal Rules. It is supported by an affidavit carrying a number of exhibits as well as by skeleton arguments. The gist of the prayer for bail is exhaustion on the part of the applicants in waiting for their judgment. The length of time they have waited in light