



THE REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
MZUZU DISTRICT REGISTRY
MISCELLANEOUS CRIMINAL APPLICATION NO 38 OF 2017
Bail Application

Between

Joe Banda..... Applicant

And

The Republic Respondent

Coram:

The Honourable Justice D.A. DeGabriele

Mr Darlington Shaibu

for the State

Mr. Newton Mdazizira

for the applicant

Ms. Munthali

Official Interpreter

Mrs Msimuko

Court Reporter

DeGabriele, J

RULING

This matter comes for a bail application pursuant to section 16(6) of the Statute Laws (Miscellaneous Provisions) 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 Ben Chimseu Village, T/A Kwataine in Ntcheu District, was arrested and incarcerated in the year 2015 on allegation that he committed a homicide. He 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 sureties 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 Court;
6. The examination of sureties will be done before the Registrar.

It is so ordered.

Made in Chambers this 19th day of May 2017


D.A. DEGABRIELE
JUDGE