

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
(CRIMINAL DIVISION)

CRIMINAL MISCELLANEOUS APPLICATION NO. 0154 OF 2026

ARISING FROM MAKINDYE NO. AA-119/2025 CRB 140/2025

MUKUYI NICHOLAS:..... JUVENILE APPLICANT

VERSUS

UGANDA:.....RESPONDENT

BEFORE: HON. LADY JUSTICE ROSETTE COMFORT KANIA

RULING

Introduction.

Mukuyi Nicholas (herein after referred to as the juvenile applicant) was arrested and charged with the offence of murder contrary to sections 171 and 172 of the Penal Code Act cap 128 and remanded at Naguru Remand Home.

He lodged this application before this Honourable Court for bail through his lawyers by way of notice of motion under Article 23(6) (a) & 28(1) (3) (a) of the Constitution of the Republic of Uganda, section 15 and 16 of the Trial on Indictment Act Cap 25, Rule 2 of the Criminal Procedure (Application) Rules SI 14-1, The Constitution (Bail Guidelines) For Courts of the Judicature (practice) Directions No. 1/2022, Guidelines 17, Section 135 &136 (5)(a) of the Children’s Act Cap 62 for orders that;

1. The juvenile applicant be granted bail.

The main grounds of this application are contained in the affidavit in support deposed by Namuddu Mariam, the biological mother of the juvenile applicant and are summarily that;

1. The applicant is a juvenile aged 17 years and currently remanded at Naguru Remand home where he has spent 4 months and 20 days and has not been committed for trial.
2. That the juvenile applicant has substantial sureties who reside together with him at Wabigalo Parish, Industrial view zone, Makindye division, Kampala city Authority in Kampala District, which is within the jurisdiction of this Court and attached their introductory letters and a copy of their national identification cards.
3. That the juvenile applicant has no previous criminal record, will not abscond if granted bail and that it is in the interest of justice that this application is granted.



The respondent filed an affidavit in reply opposing the bail application on grounds that the juvenile applicant stands indicted with the offence of murder which carries a maximum sentence of death and is likely to abscond once released on bail, that the juvenile applicant was committed to high court for trial and that there is no anticipated delay in hearing his case and that there are no exceptional circumstances demonstrated to warrant the grant of bail and prayed that the application be dismissed and matter be set down for hearing.

Legal representation.

At the hearing of this application, the juvenile applicant was represented by learned counsel Winfred Adukule Meuter while the respondent was represented by senior state attorney Kamusiime Shallote. Counsel for the juvenile applicant made oral submissions while respondent made written submissions which I have taken into consideration.

Counsel for the juvenile applicant in her oral submissions elaborated further on the grounds contained in the affidavit in support of the application and presented two sureties for the juvenile applicant.

The law on bail.

Article 23(6)(a) of the Constitution of the Republic of Uganda gives an accused person a right to apply for bail and it provides that, “a person is entitled to apply to the court to be released on bail and the court may grant that person bail on such conditions as the court considers reasonable.” The main purpose of bail is to uphold one’s rights to liberty premised on the presumption of innocence as provided for under Article 28(3) of the Constitution.

The Constitution (Bail Guidelines for Courts of Judicature Practice) Directions, 2022 provides for the right to apply for bail under paragraph 6 which provides that; where a person is charged with or convicted of a criminal offence, he or she may apply to court to be released on bail and the court may grant that person bail on such conditions as the court considers reasonable

Whereas an accused person has a right to apply for bail by virtue of Article 23(6)(a) and 28 (3) of the Constitution of the Republic of Uganda, the grant is discretionary to the court. (Uganda V Kiiza Besigye; Constitutional Reference No. 20 of 2005)

By virtue of sections 15 and 16 of the Trial on Indictment Act cap 25, a person indicted can only be released on bail if he or she proves to the satisfaction of the court that special circumstances do exist to warrant his or her being released on bail.

Section 15(1) of the Trial on Indictment Act Cap 25 provides that the high court may at any stage in the proceedings release the accused on bail, that is to say taking from him or her recognizance consisting of a bond, with or without sureties, for such an amount as is reasonable in the circumstances of the case, to appear before the court on such a date and such a time as is named in the bond.

Section 16(1) provides, that notwithstanding section 15, the court may refuse to grant bail to a person accused of an offence specified in subsection (2) if he or she does not prove to the satisfaction of court-

- a.) Exceptional circumstances
- b.) That he or she will not abscond when released on bail

Consideration of Court.



The right to apply for bail is a fundamental right guaranteed under Article 23(6) of the Constitution of the Republic of Uganda and the main purpose is to uphold one's right to personal liberty premised on the presumption of innocence provided for under article 28(3) of the Constitution (Also see Nalongo Nazziwa Josephine V Uganda SCCA No. 0035/2013)

It is also important to note that in all bail applications, court reserves the discretion to grant bail on such terms and conditions as it deems fit and reasonable. Therefore, a bail applicant should not unreasonably be denied his or her freedom or liberty as a punishment where they have not been found guilty before a competent court of law

In considering whether the applicant will not abscond if granted bail is provided for under section 16(4) of the Trial on Indictment Act Cap 25 which enjoins the court to consider the following factors;

1. Whether the applicant has a fixed place of abode within the jurisdiction of court or is ordinarily resident outside Uganda
2. Whether the accused has sound securities within the jurisdiction to undertake that the accused shall comply with the conditions of his or her bail
3. Whether the accused has on previous occasions when released on bail failed to comply with the conditions of his or her bail
4. Whether there are other charges pending against the accused.

Considering child offenders, Paragraph 17(1) of the Constitution (Bail Guidelines for Courts of Judicature (Practice) Directions, 2022 provides that; "A court before which a child appears charged with any offence shall uphold the right of the child to apply for bail guaranteed under the constitution and the law."

Paragraph 17(4) (a) of the Directions provides that court shall release a child on bail on a court bond on the child's own recognizance or with sureties preferably parents or guardians who shall be bound on a court bond, not cash. Section 135 of the Children's Act Cap 62 equally provides that;

"where a child appears before a court charged with any offence, the magistrate or the person presiding over the court shall inquire into the case and unless there is a serious danger to the child release the child on bail on court bond on the child's own recognizance or with sureties, preferably the parent or the guardian or guardian of the child who shall be bound with non-cash court bond."

Section 136(5)(a) provides that remand in custody for a child shall not exceed three months in the case of an offence punishable by death.

In this case where the applicant is a juvenile charged with the offence of murder and has been on remand for now a period of over 5 months and 20 days which is past the time by law prescribed therefore has clocked and exceeded the mandatory period of remand.

Substantial sureties.

Considering sureties, two sureties were presented before this Honourable court who are willing to enter a bond with this court to ensure that the juvenile applicant appears in court whenever required to do so and this included;

1. Wakoko Milton, the biological father to the applicant, a resident of Wabigalo parish, industrial view zone, Makindye division in Kampala city. He is a reserve force of the UPDF with telephone



number 0774953460 and equally presented his introductory letter of his local chairperson of his village and a copy of his national identity card with National Identification Number, CM 68078101133D was produced for court's inspection.

2. Namuddu Miriam, the biological mother of the juvenile applicant, a resident of Wabigalo parish, industrial view zone, Makindye division in Kampala city. She presented her introductory letter and her original national identity card for court's inspection with NIN CF 79024100KUDE and her telephone contact is 0778433963.

The above sureties were conversant with their roles as standing surety for an applicant and ready to undertake in executing them and counsel prayed that this court finds them substantial.

Having carefully addressed my mind to the provisions of the law and by virtue of section 135(a) of the Children's Act Cap 62, I find the above surety being the biological mother and father of the juvenile applicant substantial.

In regard to a fixed abode, it is the applicant's evidence under paragraph 8 of the affidavit in support of the application that the applicant is a resident of Wabigalo parish, industrial view zone, Makindye division in Kampala city where he resides with his biological mother and father who attached their introductory letters to the application, I am therefore convinced that the applicant has a fixed place of abode.

In the final result, the juvenile applicant having clocked the period for mandatory bail, the juvenile offender is hereby granted bail on the following terms;

1. The juvenile offender shall report to Makindye court on the 28th May 2026 which was the date scheduled for his next court appearance
2. The surety is bonded in the sum of Ugx. 5,000,000 (five million shillings) not cash
3. Upon committal, the juvenile offender shall report to the Deputy Registrar of this court on the 1st Monday of every month.

I so order

Dated and delivered on this 20th day of April 2026.



.....
ROSETTE COMFORT KANIA

JUDGE.