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**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[CRIMINAL DIVISION]**

MISCELLANEOUS APPLICATION NO. 811 OF 2025

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[ARISING FROM CRIMINAL CASE NO. AA14 OF 2024; BWE CRB NO. 097 OF
2024]

YOWANIDA SAMUEL ===== APPLICANT

VERSUS

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UGANDA ===== RESPONDENT

RULING

BEFORE: JUSTICE GADENYA PAUL WOLIMBWA

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Representation

Applicant: Self-represented

Respondent: Ms Happiness Ainebyona, Chief State Attorney

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Registrar:

Mr. Samuel Twakyire

Court Clerk:

Mr. Najjibu Kagwa

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1. Introduction

This application for bail pending trial was brought under *Article 23(6)(a) of the Constitution of the Republic of Uganda, 1995 (as amended)*, and *Sections 14(1) and 15(1)(a), (4)(a)–(d) of the Trial on Indictment Act, Cap 23*. The grounds of the application, as set out in the Notice of Motion and its supporting affidavit, are that:

- 35 (a) The applicant was arrested on 13th March 2024, charged with Aggravated Robbery contrary to *Sections 285 and 286(2) of the Penal Code Act*, and remanded to prison.
- (b) He was committed to the High Court for trial on 27th September 2024 and has since been on remand for over one and a half years.
- (c) He has a wife and one child; was the sole breadwinner of his family at the time of
40 arrest; and has a fixed place of abode at Mukooge Village, Isita Parish, Mazuba Sub-County, Namutumba District.
- (d) He is a first offender and is presumed innocent.
- (e) He has three substantial sureties — Mr. Makya Ibra, Mrs Namwebya Annet, and Mr. Mulinda Eria who are willing to guarantee his attendance.
- 45 In opposition, the respondent filed an affidavit by Mr. Kamba Ayub, a State Attorney in the Office of the Director of Public Prosecutions. He raised the following objections:
- (a) The applicant is a flight risk because he is charged with Aggravated Robbery, which carries a maximum sentence of death.
- (b) The prosecution is ready for trial, and it is in the interests of justice to proceed without
50 releasing the applicant.
- (c) The proposed sureties are close relatives who cannot be expected to compel the applicant's attendance.
- (d) The applicant has not proved exceptional circumstances warranting release on bail.
- (e) The applicant's place of abode has not been established by production of a certificate
55 of title or utility bills; the same deficiency applies to the sureties.
- (f) The offence involved force, violence, and a deadly weapon.
- (g) The applicant may interfere with the investigation if released on bail.

2. Issue for Determination

Whether the applicant should be released on bail pending trial.

60 **3.1 The Applicant's Submissions**

The applicant's case is founded on *Article 23(6)(a) of the Constitution* and *Section 14(1) of the Trial on Indictment Act*. He asserted his right to apply for bail but acknowledged that the court retains the discretion to grant or deny it. He told the court that he has a fixed place of abode in both Namutumba and Wakiso Districts. He presented three sureties — all
65 relatives — and argued that they were sufficient to guarantee his attendance.

On the question of exceptional circumstances, he relied on *Mulongo Namibiro Florence v Uganda*, HCMA No. 84 of 2014, and *Col (Rtd) Dr Kizza Besigye v Uganda*, Criminal Application No. 83 of 2016, for the proposition that proof of exceptional circumstances is no longer a mandatory requirement. He further cited *Obua v Uganda*, Criminal Appeal No.
70 18 of 2005, where the court observed that it is unjust to detain an accused person pending trial when no compensation is available upon acquittal, and *Mukasa and Others v Uganda (1967) HCB 117*, in which Saied CJ observed that the liberty of the individual and the interests of justice must be weighed equally in determining a bail application.

3.2 The Respondent's Submissions

75 The respondent did not file written submissions but relied on the affidavit in opposition. The court shall take into account the objections raised in that affidavit.

4. Determination

4.1 The Legal Framework

Article 23(6)(a) of the Constitution provides that where a person is arrested in connection
80 with a criminal offence, they are entitled to apply to the court for bail, and the court may grant that application on such conditions as it considers reasonable. The right to bail is underpinned by the presumption of innocence enshrined in *Article 28(3)(a)* and the right to personal liberty protected under *Article 23 of the Constitution*. Together, these provisions underscore the constitutional imperative that liberty should not be curtailed
85 beyond what the interests of justice demand.

The procedural basis for bail in the High Court is *Section 15(1) of the Trial on Indictment Act*, which empowers the court to release an accused person at any stage of proceedings, upon taking a recognizance with or without sureties, in such amount as is reasonable. The factors the court must weigh in deciding whether to grant bail with particular regard to the risk of absconding are set out in *Section 16(4) of the Act*. These include whether the accused has a fixed place of abode within the court's jurisdiction; whether the sureties are sound; whether bail conditions have previously been breached and whether other charges are pending.

These statutory provisions are restated in Guideline 13(1) of the *Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions, 2022* (the Bail Guidelines), which directs the court to consider: the gravity and nature of the offence; the applicant's antecedents; the possibility of substantial delay to trial; the likelihood of attendance; the risk of reoffending or witness interference; the safety of the community and the complainant; and whether the offence involved violence.

On the burden of demonstrating a fixed place of abode and substantial sureties, Guideline 12 of the Bail Guidelines requires that a bail application be supported by the applicant's national identity card or recognised equivalent, an LC1 introductory letter, and detailed grounds. Guideline 15(1) sets out the factors governing surety suitability, including age, employment, residential address, character, antecedents, and relationship to the accused.

4.2 Fixed Place of Abode

The applicant claimed residence at two locations: Kazinga Hassan Tourabi Zone, Bweyogerere, Kira Municipality, Wakiso District, and Mukooge Village, Isita Parish, Mazuba Sub-County, Namutumba District. He supported this claim with a single LC letter from the LC1 Chairperson of Mukooge B Village, addressed to the Magistrate of Kirinya Court, which introduced him as a married resident of good character.

In *Mugenyi Steven v Uganda, Miscellaneous Application No. 6 of 2004*, it was held that the applicant must satisfy the court that he has a fixed place of abode in a known village,

sub-county, and district, so that the court can trace his whereabouts while on bail. In *Aganyira Albert v Uganda*, HCMA 0071 of 2013, Justice Alvidza explained that an LC letter of introduction, while credible in principle, carries greater evidential weight when it specifies the duration of residence, whether the applicant owns or rents his premises, and where applicable, the landlord's name. Without such particulars, the court is left to speculate.

The applicant did not provide a letter from his LC1 Area Chairman confirming residence in Wakiso. The single LC letter for Namutumba does not state the duration of his residence or whether he occupies the premises as owner or tenant. He also failed to produce his national identity card. The burden of establishing a fixed place of abode rests on the applicant, and that burden has not been discharged.

4.3 Substantial Sureties

The applicant presented three sureties:

(a) Mr. Makya Ibra (NIN: CM84075104U6PA), paternal uncle, aged 41, peasant farmer, Mukooge Village, Namutumba District.

(b) Mrs Namwebya Annet (NIN: CM75013103576C), biological mother, aged 50, housewife and peasant farmer, Mukooge Village, Namutumba District.

(c) Mr. Mulinda Eria (NIN: CM82013100P22K), maternal uncle, aged 43, mason and businessman, Mukooge Village, Namutumba District.

All three sureties attached their national identity cards. However, only two presented LC1 letters of introduction. Mr. Mulinda Eria, the third surety, did not present such a letter. The LC letter for Mrs Namwebya Annet identified her as a resident of Kabi Zone Cell, Kamwami Ward, Buwenge Town Council, Jinja District, but did not provide sufficient detail for the court to assess her standing.

More significantly, the LC letter in respect of Mr. Makya Ibra was authored by Mr. Makya Ibra himself, in his capacity as LC1 Chairperson of Mukooge B Village. Effectively, he

introduced himself as a surety. A surety cannot introduce himself; another official must do
140 so to avoid any conflict of interest. That letter also failed to state the duration of his
residence, the basis of his tenure, or the particulars required by Guideline 15(1). No surety
provided any indication of financial standing. In the absence of proper letters of
introduction and evidence of financial capacity, the court is unable to assess the
substantiality of any of the proposed sureties.

145 **4.4 Flight Risk**

The respondent raised flight risk as a ground of objection. The court must assess this
independently as part of the overall bail inquiry.

Aggravated Robbery under *Sections 285 and 286(2) of the Penal Code Act* carries a
maximum sentence of death. The severity of the potential penalty is a well-established
150 indicator of flight risk. In *Uganda v Kyomugisha Patrick, HCMA No. 0070 of 2013*, the
court held that where an accused faces a capital charge, the prospect of a severe sentence
is a material factor tending to increase the risk of flight. In *Uganda v Kato Kajubi, HCMA
No. 188 of 2009*, it was similarly observed that the gravity of the charge and the severity
of the likely penalty weigh heavily in the flight risk assessment, and that this risk is
155 intensified where the accused has failed to establish compelling community ties through
proper documentation. See also: *Awandal v Uganda [2016] UGHCCRD11*.

In this application, the flight risk is heightened by the failure to establish a verified fixed
place of abode and by the inadequacy of the proposed sureties. An accused who has not
demonstrated stable, documentable ties to a community — through a confirmed residence,
160 a verifiable identity, and independent sureties of substance — presents a materially higher
risk of non-attendance than one who has. In *Uganda v Ssekamate Hamza, HCMA No.
174 of 2011*, the court emphasised that sureties must be persons who can exert genuine
social and economic influence on the accused; sureties who are close relatives of limited
means and who share the accused's address offer minimal assurance that the accused will
165 not abscond.

Having regard to the capital nature of the charge, the unverified place of abode, and the inadequacy of the proposed sureties, the court finds that the risk of the applicant absconding if released on bail is substantial and has not been adequately addressed.

4.5 Interests of Justice

170 Beyond the procedural deficiencies identified above, the court must consider whether the interests of justice favour the applicant's release. That inquiry is not confined to procedural compliance; it extends to the nature of the charge, the strength of the case as disclosed by the record, the likely course of proceedings, and the safety of the community.

In *Mukasa and Others v Uganda (1967) HCB 117*, Saied CJ articulated the foundational
175 principle that the court must balance the liberty of the individual against the interests of justice. That balance, however, is not a purely arithmetical exercise. As the Court of Appeal observed in *Obua v Uganda, Criminal Appeal No. 18 of 2005*, the presumption in favour of bail carries real weight, and the injustice of prolonged remand must be taken seriously. Nonetheless, the presumption in favour of liberty cannot override the court's duty to protect
180 the integrity of the trial and the safety of the community where the evidence before it clearly warrants continued detention.

This application involves a charge of Aggravated Robbery said to have been perpetrated with force, violence, and the use of a deadly weapon. The offence belongs to a class of crimes that courts have consistently recognised as warranting particular caution in bail
185 decisions. In *Uganda v Nsubuga Edward, HCMA No. 0024 of 2015*, this court declined bail in a capital robbery matter, noting that the seriousness of offences involving violence and weapons means that the presumption in favour of bail must yield to the pressing public interest in protecting potential victims and maintaining confidence in the administration of criminal justice.

190 The respondent has indicated that the prosecution is ready to proceed to trial. When the state is in a position to move the matter forward expeditiously, the grounds for continued detention are correspondingly stronger, as the applicant's constitutional right to a speedy

195 trial can be vindicated without the need for pre-trial release. The period of remand, while substantial, does not in itself displace the court's duty to weigh all relevant considerations including the gravity of the charge and the identified risks.

200 Taking all these matters together, the capital nature of the charge, the involvement of violence and a deadly weapon, the unverified residential ties, the inadequacy of the sureties, the substantial flight risk, and the prosecution's readiness for trial — the court is of the considered view that the release of the applicant on bail would not serve the interests of justice and would pose a real risk to the integrity of the forthcoming proceedings.

5. Decision

The bail application is denied. It is so ordered.



Gadenya Paul Wolimbwa

205 **JUDGE**

18th June, 2026.

The ruling was read in the absence of the parties. None appeared of yet they were summoned.

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Gadenya Paul Wolimbwa

JUDGE

18th June, 2026.