

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT MBARARA**  
**MISCELLANEOUS CRIMINAL APPLICATION No. 0105 OF 2019**  
**(Arising from H.C Cr. Case. No. 064 of 2016)**

**MUGUME EDSON:.....:APPLICANT**

**VERSUS**

**UGANDA:.....:RESPONDENT**

**BEFORE: HON JUSTICE SSEKAANA MUSA**

**RULING**

This is an application for bail pending trial. The applicant is indicted for the offence of **Aggravated Robbery c/s 285 and 286 (2) of the *Penal Code Act***.

The applicant is a male adult Ugandan aged 22 years, a motor cycle rider and a resident of Katete cell, Nyamitanga division of Mbarara Municipality. It is alleged that on the 3<sup>rd</sup> July 2019, the applicant and others still at large at Kyapotani cell Kakoba Division in Mbarara District robbed Kamugisha Rogers of his flat screen LG 32 inches, laptop 14 inches, mobile phone Huawei and cash 30,000/= and at or immediately before or after the said robbery used a deadly weapon to wit a panga on the said Kamugisha Rogers.

This application is premised on the following grounds;

1. The applicant fronts his innocence of wrong doing.
2. The applicant has no previous criminal record and there are no other pending charges against him.
3. The applicant has a fixed place of abode at Katete cell Nyamitanga Division Mbarara District within the jurisdiction of High court and is willinh to abide by any bail conditions that may be imposed upon him by this honourable court and will not abscond.

4. The applicant has substantial sureties all residents within the jurisdiction of this honourable court who will be produced on the hearing of this application.

The applicant filed an affidavit in support of the application.

The respondent opposed the application stating that the applicant has brought no evidence for permanent residence in case he jumps bail. The respondent submitted that the address of Katete ward is the address of the applicant's mother who has not confirmed whether she has permanent residence. The respondent also stated that there were no exceptional circumstances to warrant grant bail. Counsel for the respondent prayed that bail is denied.

The applicant brought two sureties; Jovia Kyohairwe from Nyamitanga village, the mother to the applicant, a farmer, aged 50 years as well as Mwonge Emmanuel, an uncle to the applicant aged 45 years, a farmer from Kakooba, Rwetondo ward. Both sureties provided copies of their National identity cards as well as their mobile phone contacts.

At the hearing the applicant was represented by Sam Dhabangi while the state was represented by Izikuru Gloria.

According to **Article 23 (6) (a) and 28 (3)** of the Constitution of the Republic of Uganda, persons accused of criminal offences have a right to apply for bail. However, the grant of bail is discretionary to the court (*see Uganda Vs Kiiza Besigye; Const. Ref No. 20 OF 2005*).

In the determination whether or not the applicant is likely to abscond and not turn up for trial is the question, whether he has a fixed place of abode within the jurisdiction of this court. The applicant states under ground 5 of his affidavit that he has a fixed place of abode but has not brought any evidence to prove his permanent residence at that address. The evidence brought before this court proves that the address stated is with regard to

his mother (the 1<sup>st</sup> surety) who does not confirm that the applicant lives with her at that address.

In that regard the applicant has not proved to the satisfaction of court that he has a fixed place of abode within the jurisdiction of court. It would be improper to grant bail to someone charged with an offence of this magnitude whose permanent residence is not known to this court.

There is high temptation for the applicant to abscond or jump bail since it is a grave offence and once convicted he may be liable to suffer death.

Bail is denied.

The application is accordingly dismissed.

I so order.

**SSEKAANA MUSA**  
**JUDGE**  
**24<sup>th</sup> January 2020**