

TATENDA MANYANI
and
TICHAONA CANAAN MANYUKURU
versus
THE STATE

1ST APPLICANT
2ND APPLICANT
RESPONDENT

HIGH COURT OF ZIMBABWE
MUZENDA J
MUTARE, 18 January 2022

Reasons for Ruling

T. Musara, for the Applicants.
J. Matsikidze, for the Respondent.

MUZENDA J: On 25 November 2021 I dismissed the applicants' application for bail pending trial based on changed circumstances. I gave my reasons for that decision in court.

On 10 December 2021 applicants wrote to the Deputy Registrar requesting reasons for judgment unfortunately the applicants legal practitioners cited a wrong case number. The applicants' legal practitioner wrote a follow up letter to the Deputy Registrar on 14 January 2022. I was given this record today at 1600 hours for my attention.

On 14 January 2021 MWAYERA J (as she then was) dismissed an application for bail and gave a detailed judgment under HMT 19/21. Both applicants are facing Murder charges. On 18 October 2021 police wrote a letter to the National Prosecuting authority indicating that it is still waiting for a forensic test and that there is no fixed date as to which results may be obtained. Having received the letter the applicants filed an application premised on changed circumstances arguing that the delayed forensic test has added but a completely different complication to the case and that the delay will be inordinate and there is no need for contained incarceration of the two applicants.

The alleged murder, was committed during a robbery and indeed it is a very serious case. On the date of first application the forensic tests were not the sole ground why the court of first instance considered in denying the applicants bail. Other factors were taken into account by the learned judge and in her wisdom dismissed the initial application. The seriousness of the offence and likelihood of applicants to abscond were other factors taken into account.

The state in its response did not oppose to the application. The forensic tests are part of the evidence sought by the state to prove its case. The forensic tests are not the sole source of evidence to be relied by the state. If they are not stated before the court neither by the applicants nor by the state. The tests were not done if they had been done and absolved the applicants, surely the existence of changed circumstances would have been established. They remain outstanding, what if they come out positive? I do not consider that the concession by the state is well placed in the circumstances.

In the result the application for bail on changed circumstances is dismissed.

Gonese & Ndlovu, Applicants' Legal Practitioners
National Prosecuting Authority, for the Respondent.