

The Republic v Annie Debra Mumba

Summary

Court:	High Court of Malawi
Registry:	Criminal Division
Bench:	Honourable Justice Mzonde Mvula
Cause Number:	Homicide Criminal Case No. 157 of 2020
Date of Judgment:	July 28, 2025
Bar:	Kamwendo, Senior State Advocate Kubwalo, Counsel for the accused

The Applicant sought bail pending appeal to the Supreme Court of Appeal after being convicted of murder and sentenced to 53 years' imprisonment. The application was premised on the argument that her appeal had a high likelihood of success, citing several grounds of appeal, and that she had complied with her bail conditions during the trial. The Applicant contended that the likelihood of success alone was a sufficient "exceptional and unusual circumstance" to warrant bail. The Republic, opposing the application, argued that the Applicant, no longer presumed innocent, must demonstrate exceptional and unusual circumstances to be granted bail. They maintained that the grounds for bail, such as a high probability of a successful appeal or the risk of serving the full sentence before the appeal is heard, must exist concurrently.

The issue before the Court was whether the Applicant had demonstrated exceptional, special, or unusual circumstances to justify granting her bail pending the hearing and determination of the appeal in the Supreme Court.

The Court, in its reasoning, affirmed that while the categories of "exceptional circumstances" are not closed, the established principles require more than a single compelling factor. It was noted that the principal factors are the likelihood of the appeal succeeding and the risk of the convict serving a significant part of their sentence before the appeal is heard. The Court proceeded to hold that the grounds of appeal did not demonstrate a strong prospect of success and that, given the lengthy sentence, she would not serve a substantial portion before her appeal was heard. The court further held that the presumption of innocence no longer applied to the Applicant, who had been found guilty after due process. Accordingly, the Court dismissed the application for bail pending appeal in its entirety, finding that releasing the Applicant would undermine the criminal justice system and the public interest in ensuring that those found guilty serve their sentences.