



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CRIMINAL DIVISION

REVIEW CASE NO. 32 OF 2021

(Being Criminal Case No. 350 of 2021 before the Senior Resident Magistrate Court sitting at Blantyre)

THE REPUBLIC

V

MCDONALD SIMEON

ORDER ON REVIEW

Chima J

The matter comes for review under section 42 of the Constitution, sections 25 and 26 of the Courts Act and section 362 of the Criminal Procedure and Evidence Code. The Chief Resident Magistrate (CRM) seeks review of the matter on the ground that the accused herein, who was a remand prisoner, was granted bail by a First Grade Magistrate who was not seized with the matter following a camp court that she conducted at Chichiri on 4 September 2021. The accused had first appeared before the Senior Resident Magistrate (His Worship Mwanyongo) on 31 March 2021 for plea taking on a count of kidnapping contrary to section 260 of the Penal Code and another count of unlawfully administering poison contrary to section 240 of the Penal Code. He pleaded not guilty to both counts and the state said they would be calling three witnesses. Two were present that day but the matter was adjourned on account of the accused who wanted to find a lawyer to represent him. The accused was remanded in prison at that time. Three witnesses for the state testified between 10th and 11th May 2021. The state remained with two more witnesses to testify. At the closure of the hearing on 11th May 2021, the Senior Resident Magistrate granted bail to the accused. Bail was granted on five conditions: that the accused would avail himself for court on 1 June 2021; that he would pay a cash bond of K50, 000; and that he would have two reliable sureties who were to be bonded to non cash sums of K50, 000 each; and that the accused would be reporting for bail to Chirimba police station every fortnight. The bail bond form is dated 11 May 2021. As far as the record goes, it shows that bail was granted by the magistrate who was seized with the

matter and not anyone else. Thus, this court will remit the file back to the Senior Resident Magistrate to continue with the hearing of the matter and disposal of it as necessary.

Made this day the 15th of November 2021


Justice Vikochi Chima