Agasirwe will interfere with witnesses in Kagezi murder case – Stat

By Barbra Kabahumuza and Michael Odeng

The prosecution team has asked the court not to release senior Superintendent of Police Nickson Agasirwe, who is accused of murdering assistant director of Public Prosecutions Joan Kagezi, saying he will interfere with witnesses and investigations.

Agasirwe had requested Justice Isaac Muwata of the Criminal Division of the High Court to grant him bail, arguing that his prolonged detention violates his constitutional rights to a fair and speedy trial, as well as the presumption of innocence.

However, Chief State Attorney Richard Birivumbuka objected to the bail application, arguing that Agasirwe could interfere with witnesses, many of whom are junior police officers.

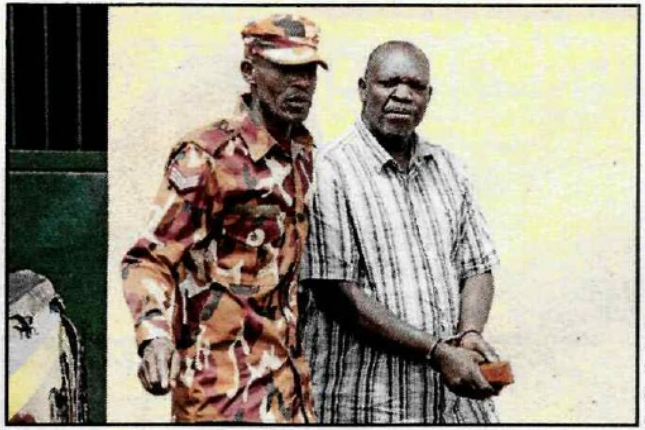
"The case involves organised criminal activity allegedly carried out with other suspects, who are still at large," he said, adding that releasing Agasirwe would pose a risk to the trial process.

Agasirwe is battling charges of murder alongside the former Flying Squad Unit operative Abdul Noor Ssemujju, alias Minaana. The offence attracts a maximum sentence of death on conviction.

Kagezi was shot dead at about 7:15pm on March 30, 2015, in Kiwatule, a Kampala suburb, as she drove home with her children.

BETWEEN THE LINES

Although the Constitution presumes an accused person innocent, until proven guilty, the right to liberty is not absolute.



Agasirwe (right) with a law official at court

REASONS FOR BAIL DENIAL

In a bail application filed in court last Friday, Birivumbuka submitted that under Section 15 of the Trial on Indictments Act and Paragraph 3 of the Constitutional (Bail Guidelines for Courts of Judicature) (Practice Directions), 2022, courts must consider several factors before granting bail, including the substantiality of sureties and the nature and gravity of the offence.

He also argued that the courts must consider whether the applicant is of advanced age, the likelihood of interfering with investigations or witnesses, the possibility of absconding, whether the applicant has a fixed place of abode, and the applicant's antecedents.

In response, Birivumbuka submitted that Agasirwe's sureties are not substantial to warrant his release on bail. The sureties are: Aloysius Muhangi, 60 (cousin) and friends; David Kureeba, 52 and Leeman Mugume, 46.

According to the prosecution, Agasirwe, 54, is older than two of the proposed sureties, which may make it difficult for them to exert sufficient influence over him should he fail to attend court.

Citing the decision in John Mugera versus Uganda, Birivumbuka said courts have previously held that a surety should possess a certain degree of authority and influence over an applicant. The state further argued that letters of introduction presented by the sureties failed to demonstrate that they had fixed places of abode.

On financial capacity, prosecution argued that none of the sureties demonstrated that they are in gainful employment or possess sufficient income to meet bail bond terms in case the applicant absconds.

Birivumbuka further questioned the bank statements and land documents presented by two of the sureties, saying they reflected minimal transactions and that one account was allegedly opened recently. He noted that another surety presented a Kibanja purchase agreement worth about sh2.1m, which had not been translat into English. "These documents do sufficiently prove that the sureties ha the financial capacity required un the bail guidelines," he argued.

Birivumbuka also said bail guidelir consider advanced age to be 60 ye and above, yet Agasirwe is 54 ye old. He also submitted that Agasir has no fixed place of residence becau the land title he presented before t court was allegedly acquired shor before the offence was committed a is currently under investigation.

UGANDA PRISONS' DEFENCE

The prosecution also dismissed clai that prison conditions were harsh Agasirwe, stating that the facility wh he is detained is well-maintain and capable of accommodating hi Birivumbuka said Agasirwe did present evidence to support allegatio that the detention conditions we affecting his health.

Birivumbuka submitted that althou the Constitution presumes an accus person innocent until proven guil the right to liberty is not absolute.

"The court must balance the rigl of the applicant with the interests justice and the public," he said. T judge will rule on Agasirwe's b application on March 18.