



International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda

ICTR-05-88-1
05-06-2007
(26 - 24)

26
S. Muna

TRIAL CHAMBER I

Before: Judge Erik Møse, presiding
Judge Jai Ram Reddy
Judge Sergei Alekseevich Egorov

Registrar: Adama Dieng

Date: 5 June 2007

THE PROSECUTOR

v.

Callixte Kalimanzira

Case No. ICTR-05-88-1

JURISDICTION/RECEIVED
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DECISION ON DEFENCE REQUEST FOR PROVISIONAL RELEASE

The Prosecution
Jonathan Moses
Katya Melliush

The Defence
Arthur Vercken
Coralie Colson

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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

SITTING as Trial Chamber I, composed of Judge Erik Mose, presiding, Judge Jai Ram Reddy, and Judge Sergei Alekseevich Egorov;

BEING SEIZED OF the "Requête de la défense de Callixte Kalimanzira en vue d'obtenir sa libération en attente de son procès", filed on 27 March 2007;

CONSIDERING the Prosecution response, filed on 28 March 2007;

HEREBY DECIDES the motion.

INTRODUCTION

1. The Defence seeks the provisional release of the Accused, pursuant to Rule 65 (B) of the Rules of Procedure and Evidence. It claims that his willingness to confront the allegations against him is demonstrated by his voluntary surrender to the Tribunal, and the fact that he has been living openly in Kenya until he learned about his Indictment. The Accused is a respected family man. He does not pose a threat to the witnesses, as their identities are concealed. Besides, most of them are detained in Rwanda. The Prosecution submits that detention is the rule and provisional release the exception; that the conditions of Rule 65 (B) have not been met; and that it is against the public interest to release the Accused provisionally.

DELIBERATIONS

2. According to Rule 64, an accused shall be detained after the transfer to the Tribunal. In certain circumstances, the Tribunal may order his provisionally release. Rule 65 (B) provides:

Provisional release may be ordered by a Trial Chamber only after giving the host country and the country to which the accused seeks to be released the opportunity to be heard and only if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person.

3. The Indictment against the Accused of 21 July 2005 was confirmed and subjected to a confidentiality order on the following day. The Accused is charged with three counts: genocide, complicity in genocide, and direct and public incitement to commit genocide. The Indictment was made public during his initial appearance, on 14 November 2005. The Defence has not established that the Accused was aware of the charges against him while he was living in Kenya. The Chamber is not convinced that at the time of his surrender, the Accused was fully aware of the seriousness of these charges, or that he will appear for trial if he were granted provisional release. The conditions in Rule 65 (B) are cumulative.¹ Accordingly, it is unnecessary to examine whether the other requirements have been met.

4. In light of the Tribunal's Completion Strategy, it is likely that the trial of the Accused will commence in early 2008. Considering the number and complexity of the Tribunal's cases, and the gravity of the crimes under its jurisdiction, the Accused's period of pre-trial

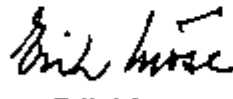
¹ *Nsabirinda*, Décision relative à la requête de la Défense aux fins de fixer la date d'ouverture du procès de l'Accusé et d'obtenir en attendant sa mise en liberté en attendant cette date (TC), 13 October 2006, para. 13.

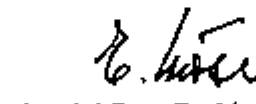
detention does not amount to undue delay.²

FOR THE ABOVE REASONS, THE CHAMBER

DENIES the motion.

Arusha, 5 June 2007


Erik Møse
Presiding Judge


P.P. Jai Ram Reddy
Judge


Sergei Alekseevich Egorov
Judge

[Seal of the Tribunal]



² *Ibid*, para. 12; *Nsengimana*, ICTR-01-69-AR65, Decision on application by Hormisdas Nsengimana for leave to appeal the Trial Chamber's decision on provisional release (AC), 23 August 2005, p. 5.