

**IN THE HIGH COURT OF SOUTH AFRICA
(FREE STATE DIVISION, BLOEMFONTEIN)**

Application no. 2484 /2023

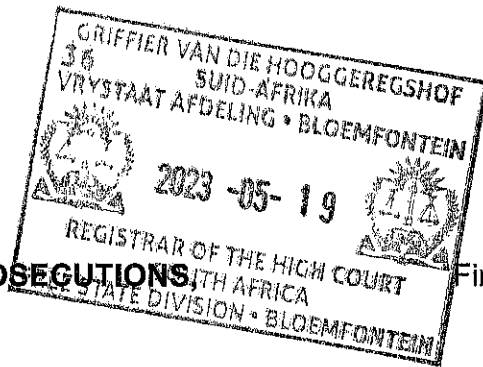
In the matter between:

NANDIPHA MAGUDUMANA

Applicant

and

**THE DIRECTOR OF PUBLIC PROSECUTIONS
FREE STATE**



First Respondent

**THE MINISTER OF THE SOUTH AFRICAN
POLICE SERVICES (N.O.)**

Second Respondent

CAPTAIN FLYMAN

Third Respondent

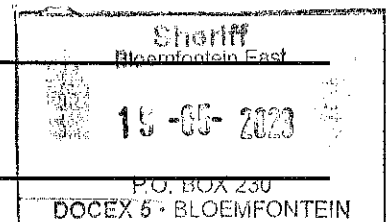
**THE PRESIDING MAGISTRATE (N.O.) –
CASE NUMBER 20A/113/23
MAGISTRATE'S COURT BLOEMFONTEIN**

Fourth Respondent

**THE HEAD OF THE BIZZAH MAKHATE
CORRECTIONAL CENTRE: KROONSTAD**

Fifth Respondent

NOTICE OF MOTION



BE PLEASED TO TAKE NOTE that Nandipha Magudumana (hereinafter called "*the Applicant*") on Thursday, the **25th May 2023** at 09h30 (as soon as the motion court is

concluded) will apply to this Court for orders in the following terms:

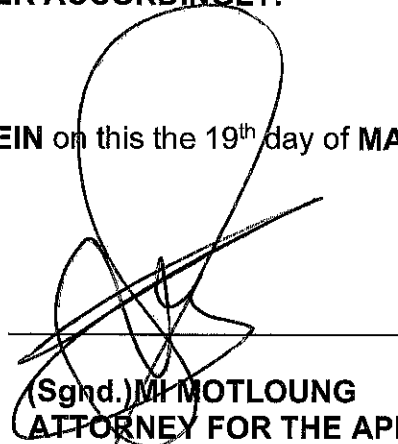
1. That this application be heard as an urgent application in terms of Rule 6(12) of the Court Rules and the non-compliance with process, service and form be condoned.
2. Declaring that the Applicant's apprehension, arrest and abduction in Tanzania on or about the **7th April 2023** and subsequent transportation to the Republic of South Africa and purported arrest and detention pursuant thereto, be declared wrongful and unlawful.
3. Declaring that the arraignment before the Fourth Respondent under Bloemfontein case number **20A/113/23** is a nullity and setting aside the proceedings before the Fourth Respondent in respect of the Applicant.

4. Directing the orders and warrants by the Fourth Respondent in terms whereof the Fifth Respondent detain the Applicant to be null and void.
5. Declaring that the Applicant is entitled to be discharged from detention and directing the Fifth Respondent to immediately discharge the Applicant from further detention.
6. Costs only against such Respondents as may oppose the application.
7. Further and/or alternative relief.

PLEASE TAKE NOTICE that the affidavit of the Applicant, together with the annexures thereto will be used in support of the application.

BE PLEASED TO ENROL THE MATTER ACCORDINGLY.

DATED and SIGNED at **BLOEMFONTEIN** on this the 19th day of **MAY 2023**.



(Sgnd.) M MACHINI MOTLOUNG
ATTORNEY FOR THE APPLICANT
ATTORNEY WITH THE RIGHT OF APPEARANCE IN TERMS
OF SECTION 4(2) OF ACT 62 OF 1995
MACHINI MOTLOUNG INC. ATTORNEYS
101 OLYMPUS DRIVE
PHG OFFICE SUITE
OLYMPUS AVENUE
HELICON HEIGHTS
BLOEMFONTEIN
Cellphone number: 0715676544
Email : machini@mmincattorneys.com
Ref: Machini 001223

TO:

THE REGISTRAR
FREE STATE HIGH COURT
BLOEMFONTEIN

AND TO:

FIRST RESPONDENT
THE DIRECTOR OF PUBLIC PROSECUTIONS,
FREE STATE

AND TO:

SECOND RESPONDENT
THE MINISTER OF THE SOUTH AFRICAN
POLICE SERVICES

**c/o THE OFFICES OF THE STATE
ATTORNEY
11TH FLOOR, FEDSUIRE BUILDING
49 CHARLOTTE MAXEKE STREET
BLOEMFONTEIN**

AND TO:

**THIRD RESPONDENT
CAPTAIN FLYMAN**

AND TO:

**FOURTH RESPONDENT
THE PRESIDING MAGISTRATE
MAGISTRATE'S COURT,
BLOEMFONTEIN**

AND TO:

**FIFTH RESPONDENT
THE HEAD OF THE BIZZAH MAKHATE
CORRECTIONAL CENTRE, KROONSTAD**

/ff

**IN THE HIGH COURT OF SOUTH AFRICA
(FREE STATE DIVISION, BLOEMFONTEIN)**

Application no. **/2023**

In the matter between:

NANDIPHA MAGUDUMANA

Applicant

and

**THE DIRECTOR OF PUBLIC PROSECUTIONS,
FREE STATE**

First Respondent

**THE MINISTER OF THE SOUTH AFRICAN
POLICE SERVICES (N.O.)**

Second Respondent

CAPTAIN TIEHO JOBO FLYMAN

Third Respondent

**THE PRESIDING MAGISTRATE (N.O.) –
CASE NUMBER 20A/113/23
MAGISTRATE'S COURT BLOEMFONTEIN**

Fourth Respondent

**THE HEAD OF THE BIZZAH MAKHATE
CORRECTIONAL CENTRE: KROONSTAD**

Fifth Respondent

AFFIDAVIT

I, the undersigned,

NANDIPHA MAGUDUMANA

M.C. *AT
N.M.*

hereby declares under oath as follows:

1.

- 1.1 I am a major female, South African Citizen and qualified medical doctor, 34 years old.
- 1.2 The facts contained in this statement falls within my personal knowledge, save where otherwise indicated and are both true and correct.
- 1.3 Where I make legal submissions herein, I do so on advice of my legal team. I believe in the correctness of such advice.
- 1.4 Presently, I am illegally detained at the Bizzah Makhate Correctional Centre in Kroonstad by the Fifth Respondent.

2.

The First Respondent is the **Director of Public Prosecutions, Free State**, with head offices in the jurisdiction of this Court at **Aliwal Street, Bloemfontein**. The First Respondent is the Prosecuting Authority in terms of the Criminal Procedure Act 51 of 1977, and as I will show hereinlater, conducts the illegal proceedings herein in the Magistrate's Court, Bloemfontein under case number **20A/113/23** before the Fourth Respondent.

3.

The Second Respondent is the **Minister of the South African Police Services**, (in his official capacity) and who amongst others employ the Third Respondent herein.

A.T.
N.M

Service of this application will be effected on the Second Respondent on the **State Attorney Offices, 11th Floor, Fedsure Building, 49 Charlotte Maxeke Street, Bloemfontein** in terms of the Court Rules.

4.

The Third Respondent is **Captain Tieho Jobo Flyman**, a major male, whose full and further particulars are unknown to me. Third Respondent is Police Officer and as such in the employment of the Second Respondent. According to the charge sheet, the Third Respondent is the investigating officer in Bloemspruit cases number **CAS 289/9/2022** and **316/01/2023**. As such, these cases are ostensibly pending under case number **20A113/23** in the Magistrate's Court before the Fourth Respondent.

5.

The Fourth Respondent is the **Presiding Magistrate** (from time to time) **N.O.** in case number **20A/113/23** in the Magistrate's Court, Bloemfontein.

6.

The Fifth Respondent is the **Head of the Bizzah Makhate Correctional Centre, Brits Street, Kroonstad** and where I am presently detained.

7.

Tanzania is a sovereign country in Africa. None of the Respondents and more in particular the Second Respondent (or its employees) have any jurisdiction or authority to arrest anyone there and or the authority to remove South Africa (save where properly authorized by the authorities or Court in Tanzania).

A.T.
N.M

8.

On or about the 6th April 2023 I was in Tanzania. Members of the Second Respondent (and whose full and further particulars are unknown to me) arrested and/or forcefully abducted me. On the evening of the 12th April 2023 I was told that I was going home, and ultimately I was blindfolded and taken to an airport in Tanzania. Although I do not know the members of the South African Police Service, I can confirm that I was taken to the airport in Tanzania by members of the South African Police Services. Upon my arrival at the airport in Tanzania I was confronted by two(2) members of the South African Police Service in full uniform. They took me in a Kombi and led me to the aircraft. They both ordered me to get inside the aircraft where I found about four(4) members of the South African Defence Force inside the aircraft. I then sat in the aircraft flanked by members of the second responders and the members of the Defence Force. I must hasten to point out that the two (2) female warrant officers' names became known to me namely Warrant Officer Myeni and Warrant Officer Mbali. They accompanied me to the airport in Tanzania where we boarded a plane, ostensibly chartered for that purpose by Second Respondent and wherein we were transported to Lanseria Airport in South Africa. From there, we travelled to the Bloemfontein Magistrate's Court where I appeared before the Fourth Respondent. At the behest of the First Respondent, the matter was postponed to various dates and, at the request of the First Respondent, I was remanded in custody to the Fifth Respondent by way of orders granted by the Fourth Respondent.

A.T.
N.M

9.

I attach a copy of the proceedings before the Fourth Respondent and attach it hereto as annexure "A". The charge sheet (drawn by First Respondent) and the relevant charges is annexed thereto. I haven't pleaded on any of the charges yet. I have not applied for bail. On the **3rd May 2023** my present attorney of record was appointed. Having consulted him the opinion of Counsel was invited in respect of whether the proceedings before the Fourth Respondent is not a nullity. I have been advised that where I have been abducted from a foreign state and brought to South Africa and detained, the effect of such abduction on the jurisdiction of the Trial Court (applying the Common Law principles as well as the provisions of the Constitution of South Africa), the Court lacks jurisdiction. The State must come to Court with clean hands and such requirement is clearly not satisfied where the State is involved in abduction of myself across the country's borders. As mentioned, the Second Respondent's servants had no jurisdiction and/or authority to arrest and/or to bring me to South Africa and charge me as they did. I have been advised that the Court will protect me against the unlawful detention and grant orders to set aside the whole of the proceedings before the Fourth Respondent in respect of myself and order my release.

10.

I am the Fourth Accused referred to in annexure "A". According thereto I was arrested on the **13th April 2023**. That is obviously incorrect. I was arrested before that in Tanzania, by members of the Second Respondent and only arrived in South Africa on the **13th April 2023** when I was taken to Court.

A.T.
N.M

11.

I have been advised that the Magistrate's Court have no authority to grant the orders that I seek herein, wherefore I apply to this Court for the necessary declarators.

12.

I can with certainty say that I never appeared in any Court in Tanzania. I simply did not appear in any Tanzanian Court. No orders were granted by any such Court, and if it did, it is reasonable to assume that either the First, Second or Third Respondent would be in possession thereof. It is furthermore reasonable to accept that if any such documentation existed, ordering for example my extradition, same would have been annexed to the charge sheet before Fourth Respondent – annexure "A" hereto. It will be noted therefrom, that same is not annexed thereto. My present attorney of record enquired whether such documentation exists, but were not supplied with any. No such documentation were ever shown to me.

13.

I am advised that extradition in South Africa is regulated by the Extradition Act 67 of 1962. I am advised that during 2002 South Africa and numerous other African countries specifically Tanzania, signed an extradition agreement that aimed to establish a legal framework for the extradition of fugitives between the requesting and requested State countries. The aforesaid protocol was ratified by the South African Parliament on the **14th April 2003**. The aforementioned agreement prescribes various procedures for making an extradition request. None of these procedures has been followed.

A-T
N.m

14.

The surrender of an individual from Tanzania lies in the Tanzanian Law of Extradition Act no. 15 of 1965. It ultimately, on complying with all the provisions thereof, lies therein that a Minister may by order request a Magistrate to issue a warrant for the arrest and detention (and ultimate extradition) of the person. No such procedure was ever followed, and as stated, no such order was made by any Court in Tanzania. I can with certainty say that I have not been found by any Court in Tanzania to be an illegal immigrant, nor have I been deported by such Court to South Africa.

15.

On the **12th May 2023** my attorney of record requested from the Second and Third Respondent information in respect of my arrest. A copy of the letter is annexed hereto as annexure "**B**". No response came forth.

16.

A similar request was sent to the First Respondent on the **11th May 2023**. A copy thereof is annexed as annexure "**C**".

17.

The First Respondent, on the **12th May 2023** reacted as per annexure "**D**". None of the requested documentation is ostensibly in possession of the First Respondent. Noteworthy from the letter it is stated that the South African Police were not involved in the arrest as it would not have any jurisdiction to arrest in Tanzania. The bold allegation is made that as I was ostensibly arrested in Tanzania by the Tanzanian authorities, I am to contact the Tanzanian authorities for more information in this

A.F.
N.M

respect. No only, is this allegation incorrect, but it should be common cause that members of the Second Respondent, by way of an aeroplane transported me from the airport in Tanzania to South Africa. They could only have legally done so, in terms of a valid Court order by Tanzania. Obviously the First to Third Respondent, should be in possession of such a Court order. It is unthinkable for what other reason an aeroplane would have been chartered to fly to Tanzania to transport me back to South Africa. The statement made by the First Respondent in this respect is wrong. The letter further states that the warrant of arrest was handed in at Court and forms part of the record. As is evident from annexure "B", no warrant is attached thereto. In any event, a warrant, issued by a Court in South Africa and that has been executed in South Africa, would not assist any of the Respondents. It is the very arrest and removal in Tanzania, which, according to my advice, flaws the whole process.

18.

The matter is obviously urgent. I am being detained illegally. As stated, my present attorney of record were only appointed on the 3rd May 2023. Having arranged a consultation, the opinion of Counsel were required. It was thought to be prudent to require or to request from at least the first three Respondents, the existence of the documentation in terms whereof I was brought from Tanzania to South Africa. I was advised that if such documentation were to exist it would have to be studied and I would have to be advised on that. As mentioned, none came forth. In passing by, I may mention that my attorney (without any success) required similar information from the Minister of International Relations and Cooperation, the Director General International Relations and Cooperation, the Minister of Home Affairs and the Director General of

A.T.
N.M

Home Affairs. The Director of Home Affairs did respond on the 15th May 2023 considering the request to be flawed.

19.

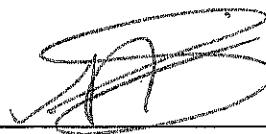
I have been advised that it is in the interest of justice that this matter be resolved as speedily as possible. In the event it being found, as I submit, that the whole process is a nullity, it should be established as soon as possible. In the meantime, I cannot remain in custody illegally. The application could not be launched before an answer was not supplied to the requested information. Only thereafter, I could be advised whereafter I instructed this application to be proceeded with in view of the advice received. A reasonable opportunity will be afforded to any of the Respondents who intend to oppose the application. It should have been easy for any of the Respondents to supply the documentation upon which they rely for alleging that I have been brought lawfully from Tanzania to South Africa. As mentioned it did not come forth. I reasonably expected same, if it existed, to be annexed to the charge sheet or to be in possession of at least the first three Respondents. Although I have been advised that I am not entitled to the contents of the docket yet, this aspect boils down to the very core of my detention. It does not refer to the merits of the charge sheet. It is prudent to raise this point at this stage. I will see to it that this application is issued timeously and served upon the Respondents affording them more than ample time to oppose this application, should they wish to do so. I respectfully will ask the Court to condone non-compliance with the rules in respect of form, time limits and service as is prescribed in Rule 6(12).

AJ.
N.M

20.

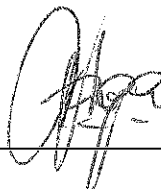
I do not intend to move for any cost order against any of the Respondents, save in the event of opposition to this application.

WHEREFORE I respectfully request for orders in terms of the Notice of Motion.



N MAGUDUMANA

I CERTIFY that this affidavit has been sworn to and signed before me at KROONSTAD this 18TH day of MAY 2023 by the abovementioned deponent who declared that she is acquainted with the contents of this affidavit and understands same, that she has no objection to taking the prescribed oath and further, that she considers the said oath as binding on her conscience, which oath was properly taken by me, as required by law.



COMMISSIONER OF OATHS

FULL NAMES : ANELE TSHAPA

ADDRESS : ANELE TSHAPA

CAPACITY : KOMMISSARIS VAN EDE

AREA : COMMISSIONER OF OATHS

99 MURRAY STREET

KROONSTAD, 9500

PRAKTISERENDE PROKUREUR R.S.A

PRACTISING ATTORNEY R.S.A

AT
N

ANNEXURE "A"

Gcms

DISTRIKSHOF / DISTRICT COURT

4012023 ea
DIE STAAT TEEN/THE STATE VERSUS:

SAAK NOMMER/ CASE NUMBER: 20ⁿ/1113/23
1360

- | | |
|-------------------------------------|-------------------------------|
| 1. <u>SENOHE ISHMAEL MATSOARA</u> | OUDERDOM/AGE: <u>38 YEARS</u> |
| 2. <u>ZOLILE CORNELIUS SEKELENI</u> | <u>63 YEARS</u> |
| 3. <u>LEBOHO JAMES LIPOHO</u> | <u>40</u> |
| 4. _____ | _____ |
| 5. _____ | _____ |
| 6. _____ | _____ |
| 7. _____ | _____ |

LEGAL REPRESENTATIVE(S): _____

AANKLAG(TE)/CHARGE(S): C/O SEC 115(b) of Act 111 of 1998, DEFEATING THE ENDS OF JUSTICE, FRAUD, MURDER SEC 51(1) AND ARSON.

ONDERSOEKBEAMPTTE/INVESTIGATION OFFICER: CAPT FLYMAN

TEL NO: _____

STASIE/STATION: BLOEMSPRUIT

MAS: 289/05/2022

DATUM DATE	HOF COURT	POSISIE POSITION	REDE VIR UITSTEL REASON FOR REMAND	TYD TIME
	20	IC		
<u>17/04/23</u>	<u>20ⁿ</u>	<u>IC</u>	<u>SOL 6)</u>	

DOV OPDRAG / DPP INSTRUCTION: OC 04/2023

FURTHER PARTICULARS:

DATE REQUESTED: _____ VERW. / REF. _____



REPUBLIC OF SOUTH AFRICA

CHARGE SHEET

* Make an X in the appropriate block

Case No. <u>20^A / 112 / 23</u> Date
Review Case No. Date
Investigation officer, Captain Flyman
Date of first appearance 11 APRIL 2023

Police station BLOEMSPRUIT	CAS/CR/MAS/MR No. 289/5/2022 & 316/01/2023
District/Division FREE STATE	Place of trial BLOEMFONTEIN

Particulars of court officials must be furnished on the minutes of proceedings.

THE STATE VERSUS

Particulars of accused

Name SENOHE ISHMAEL MATSOARA														
Address 18173 FRANK KITSIA STREET, BLOEMANDA PHASE 2, BLOEMFONTEIN														
Male	<input checked="" type="checkbox"/>	Female	<input type="checkbox"/>	Nationality RSA				Age 38						
*In custody	<input checked="" type="checkbox"/>	On bail	<input type="checkbox"/>	Warned	<input type="checkbox"/>	Date of arrest	0	8	0	4	2	0	2	3
Name ZOLILE CORNELIUS SEKELENI														
Address LOT 632, 5th STREET NUMBER 30, PORT EDWARD, KWAZULU-NATAL														
Male	<input checked="" type="checkbox"/>	Female	<input type="checkbox"/>	Nationality RSA				Age 65						
*In custody	<input checked="" type="checkbox"/>	On bail	<input type="checkbox"/>	Warned	<input type="checkbox"/>	Date of arrest	0	8	0	4	2	0	2	3

(hereinafter called the accused) charged with the offence(s) as set out in Annexure(s) A to ^E as attached.

Plea	(Date)	
Judgement	(Date)	
Sentence on		
Date	Magistrate	Date of appointment to the rank of Magistrate

Direction with regard to revision of sentence
Direction with regard to filing of case record

ANNEXURE TO J15 CHARGE SHEET

2 Names: Teboho James Lipholo						
Address: 5776 Caleb Motshabi, Bloemfontein						
Sex: Male		Nationality: RSA			Age: 45	
In Custody:	X	On Bail		Warning		Date of Arrest: 11/04/2023
H Name: Nandipha Mogudumana						
Address: 22 A Second Road, Hyde Park, Sandton, Johannesburg						
Sex: Female		Nationality: RSA			Age: 34	
In Custody	X	On Bail		Warning		Date of Arrest 13/04/2023
Name:						
Address:						
Sex		Nationality:			Age:	
In Custody		On Bail		Warning		Date of Arrest
Name:						
Address:						
Sex:		Nationality			Age:	
In Custody		On Bail		Warning		Date of Arrest
Name:						
Address:						
Sex:		Nationality			Age:	
In Custody		On Bail		Warning		Date of Arrest

ANNEXURE A

Case no 20^A 113/23

Count No

THE STATE versus

~~SENDE ISMAEL MARBORA~~
~~LOUIS CORNELIUS GERELNI~~

(Hereinafter referred to as the accused)

AIDING ESCAPES

THAT the accused are guilty of the offence of contravening the provisions of Section 115(b) of Act 111 of 1998 – AIDING ESCAPES

IN 3 MAY 2022 THAT _____ upon _____ or _____ about _____ and at or near Mangaung G4S Prison in the District Mangaung in the Regional Division of Free State, the accused, did unlawfully and intentionally assist a prisoner to wit Thabo Bester, who had been lawfully arrested and lodged in a prison, police cell or lock-up aid the prisoner to escape from such lawful custody.

B

Case no/Saak nr 20^A112/23

Count No/Aanklag nr 02

THE STATE versus/DIE STAAT teen
Senohe Ishmael Matsoara
Zolile Cornelius Sekeleni

(Hereinafter referred to as the accused)

DEFEATING THE ADMINISTRATION OF JUSTICE

THAT the accused is/are guilty of the crime of Defeating or Obstructing the Administration of Justice

IN THAT upon or about the _____ day of _____
and at or near _____ in
the District/Regional Division of _____, the
accused did unlawfully and with intent to defeat or obstruct the course of justice,
commit an act, to wit _____

which act defeated or obstructed the administration of justice.

DEFEATING THE ADMINISTRATION OF JUSTICE

THAT the accused is/are guilty of the crime of Defeating or Obstructing the Administration of Justice

IN THAT upon or about the _____ day of _____
and at or near _____
in the District/Regional Division of _____, the
accused did wrongfully and intentionally perform the following acts: _____

AND WHEREAS the accused, when he/she acted as aforesaid, well knew and intended
that his/her actions would have the following results or consequences: _____

AND WHEREAS, as a result of the actions of the accused, _____

AND THUS the accused did defeat or obstruct the administration of justice.

ANNEXURE/AANHANGSEL

C

Case no/ Saak nr

20th / 112 / 22

60

Count No: 82 3

THE STATE versus/DIE STAAT teen

Zolile Cornelius Sekelni

(Hereinafter referred to as the accused)

FRAUD

(Read with the provisions of Section 51(1) of the Criminal Law Amendment Act 105 of 1997)

THAT the accused is/are guilty of the crime of Fraud

IN THAT * on or about the _____ day of _____ 20__

*during the period _____ to _____

*on or about the dates as per column _____ of Schedule " _____"

and at or near _____
in the District/Regional Division of _____, the
accused did unlawfully, falsely and with the intent to defraud and to the prejudice or
potential prejudice of _____

_____ give
out and pretend to _____

that _____

Whereas in truth and in fact when the accused gave out and pretended as aforesaid
he/she/they knew that in truth and in fact:

Alphexult D.

CASE NO: 20^a / 113 / 2023
COUNT NO:4

THE STATE

VERSUS

Senohe Ishmael Matsoara

Zolile Cornelius Sekeleni

(Hereinafter referred to as the accused)

COUNT 4:

THAT the accused are guilty of the crime of Murder (read with the provisions of Section 51(1) of Act 105 of 1997); Doctrine of common purpose is alleged.

IN THAT upon or about 03 March 2022 and at or near Bloemfontein in the in the district of Mangaung in the Regional Division of the Free State, the accused did unlawfully and intentionally kill unknown an adult male person.

(Murder)

Annexure E

CASE NO: 20/13/2023

COUNT NO: 5

THE STATE

Versus

Senohe Ishmael Matsoara

(Hereinafter referred to as the accused)

COUNT 5:

THAT the accused are guilty of the crime of Arson

IN THAT upon or about 03 May 2022 and at or near Mangaung G4S Bloemfontein in the Regional Division of the Free State, the accused did unlawfully and with intent to injure Mangaung G4S Prison in their property, set fire to and thereby damage or destroy a prison cell, being an immovable structure, and the property of or in the lawful possession of Mangaung G4S prison.

(Arson)

MINEXUAE F

Case no 20A / 118 / 23
Count No 6

THE STATE versus
TEBOHO JAMES DIPHOLO
(Hereinafter referred to as the accused)

CORRUPTION – ACCEPTING A BENEFIT

THAT the accused is guilty of the crime of contravening the provisions of Section 3(a) read with Sections 1, 2, 24, 25, 26(1)(a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004 – Corruption: Accepting a Benefit

IN THAT on or about _____ and at or near _____ in the District / Regional Division of _____, the Accused, directly or indirectly, unlawfully accepted / agreed / offered to accept any gratification, to wit _____ from any other person, to wit _____ whether for the benefit of himself or for the benefit of another person, to wit _____ in order to act, personally or by influencing another person, to wit _____ so to act, in a manner that amounts to the illegal, dishonest, unauthorised, incomplete, or biased exercise, carrying out or performance of any powers, duties, or functions arising out of a constitutional, statutory, contractual or any other legal obligation, to wit _____

ANNEXURE 4

Case no 26A/113/23

Count No 7

THE STATE versus

NANDIPHA MAGUDUMANA

(Hereinafter referred to as the accused)

AIDING ESCAPES-CONCEAL-HARBOURING

THAT the accused is guilty of the crime of contravening Section 115(e) read with Section 1 of the Correctional Services Act 111 of 1998 – Aiding Escapes

IN THAT on or about 03 May 2022 and at or near _____ in the District Mangaung in the Regional Division of Free State, the accused did unlawfully and intentionally harbour, conceal or assist Thabo Bester being a prisoner, who had been lawfully arrested and lodged in a prison or cell.

ANNEXURE H

Case no 26A/113/23
Count No 8

THE STATE versus
NANDIPHA MAGUDUMANA

(Hereinafter referred to as the accused)

VIOLATING A BODY

THAT the accused is/are guilty of the crime of Violating a Body

IN THAT upon or about _____ at
_____ in the District Mangaung in the Regional Division of
Free State, the said accused unlawfully and intentionally disturbed a human
body by _____

ANNEXURE 1

Case no
Count No

26A/113/03
4

**THE STATE versus
NANDIPHA MAGUDUMANA**

(Hereinafter referred to as the accused)

VIOLATING A BODY

THAT the accused is/are guilty of the crime of Violating a Body

IN THAT upon or about _____ at
_____ in the District Mangaung in the Regional Division of
Free State, the said accused unlawfully and intentionally disturbed a human
body by _____

ANNEXURE 1

Case no 26A/113/23
Count No 10

**THE STATE versus/
NANDIPHA MAGUDUMANE**

(Hereinafter referred to as the accused)

FRAUD

THAT the accused is/are guilty of the crime of Fraud

IN THAT * on or about the _____ day of _____ 20____

*during the period _____ to _____

*on or about the dates as per column _____ of Schedule "____"

and at or near _____ in the District/Regional Division
of _____, the accused did unlawfully, falsely and
with the intent to defraud and to the prejudice or potential prejudice of

give _____ out _____ and _____ pretend _____ to

that _____

Whereas in truth and in fact when the accused gave out and pretended as aforesaid
he/she/they knew that in truth and in fact:

ANNEXURE h

Case no 26A/113/23
Count No 11

**THE STATE versus/
NANDIPHA MAGUDUMANE**

(Hereinafter referred to as the accused)

FRAUD

THAT the accused is/are guilty of the crime of Fraud

IN THAT * on or about the _____ day of _____ 20__

*during the period _____ to _____

*on or about the dates as per column _____ of Schedule "____"

and at or near _____ in the District/Regional Division
of _____, the accused did unlawfully, falsely and
with the intent to defraud and to the prejudice or potential prejudice of

give out and pretend to

that _____

Whereas in truth and in fact when the accused gave out and pretended as aforesaid
he/she/they knew that in truth and in fact:

On: 11/04/2023 S V SIMATSOARA AND ANOTHER

Magistrate: Mr. Hlabisi
Acc 1: Mr. Moruri

Prosecutor: Mr S S MATLHOKO Interpreter _____ Defence: _____

RIGHTS WITH REGARD TO LEGAL REPRESENTATION:

In terms of section 35(2) of the Constitutional Act, Act 108 of 1996, you are entitled to legal representation.

BOTH ACCUSED BEFORE COURT.
Acc 2: Adv. Diba

You are hereby informed that if you cannot afford your own legal representative, you may apply for legal aid at the Legal Aid Office.

Question: Do you understand?

Answer: YES accused 1:
YES accused 2:

Question: Do you have your own legal representative or do you want to appoint your own legal representative?

Answer: YES accused 1:
YES accused 2:

Question: Do you wish to apply for legal aid?

Answer: YES accused 1:
NO accused 2:
NO

Indicate what steps were taken if the accused requires legal aid:

REFERRED TO LEGAL AID OFFICE / REFERRED TO CLERK OF THE COURT.

I will appoint my own legal representative / I will conduct my own defence.

CONTINUATION OF BAIL PROCEEDINGS:

See Annexure A A (section 60(11)(B)(d) of Act 51 of 1977).

Prosecutor addresses the Court:

Request & remand for Bail information and for Bail applications

Accused addresses the Court:

Mr. Moruri and Adv. Diba both confirms & settle.

(continued on page)

POSTPONEMENT:

The case is remanded until 17 104 2023 for appearance in Court no. 20

Mark eith X which is applicable:

Legal aid / legal representative.

Further investigation.

Plea and trial.

Accused warned to appear before court at 08:30.

Accused in custody - sec. 50(6) of Act 51 of 1977.

Accused released in custody of guardian(s) possible Formal bail application.

_____ court and to stay present until excused by the court. Both are warned to appear at 08:30 before the

Bail considered by prosecutor and extended.

Bail set by SAPS and extended.

Bail is granted and set at R _____ Conditions explained and accused understand(s).

[Signature]
(Add.) Magistrate: Bloemfontein

11/04/2023

Case No: 20^{A2} / 113/2
(81/143198)

On 13/4/2023
 P/O: Mr. M. Khawabir
 P/O: S. Mawtho
 S/N: Macaula
 Def: Acc 3
 Acc 4: D.W. Diba

Accused No. 3 and No. 4 before court

PP: Apply for joinder of charges in terms of Section 157(A) of the Criminal Procedure Act 51 of 1977, for Accused No. 3 and No. 4 to be joined to this case.

Def: Mr. Diba confirms appearance and a date in respect of Accused No. 4. Accused No. 3 conduct his own defence.

Court: Application for joinder of Accused No. 3 and No. 4 in terms of Section 157(A) of the Criminal Procedure Act 51 of 1977 is hereby granted.

Remanded to the 17/04/2023 for Accused No. 1 and No. 2, and for bail information and possible bail application in court 20A. Both Accused No. 3 and No. 4 to remain in custody, both no bail at this stage.

M. - 13/04/2023

ANNEXURE B11

**MACHINI
MOTLOUNG INC
ATTORNEYS**

LEGAL EXPERTISE EXCEEDING EXPECTATIONS

Address: 101 on Olympus
PHG Office suite, Olympus Avenue,
Pentagon Park, Bloemfontein

Office: 051 448 8831 **Cell:** +27 71 567 6544

E-mail: machini@mmincattorneys.com

Our Ref: M Motloug/0012023

Your Ref:

Date: 12 May 2023

**To: Lt Gen Sehlahle Fannie Masemola
National Commissioner
South African Police Service (SAPS)
Pretoria**

Delivery per email: divhrd.dc.so@saps.gov.za

Dear Sir,

RE: S v NANDIPHA MAGUDUMANA - REQUEST FOR INFORMATION

1. We refer to the above matter.
2. We act on behalf of Dr. Nandipha Magudumana ("our client").
3. Our client is currently having a pending criminal matter in the Bloemfontein District Court under *case number: 20A/113/23 with CAS Numbers: 289/5/2022 & 316/01/2023.*
4. Our client was arrested in Tanzania and brought to the Republic of South Africa on a privately chartered aircraft.
5. We hold instructions to demand the following details from your office.
 - 5.1 The processes and procedure invoked to secure the arrest of our client in Tanzania.

Website: www.mmincattorneys.com



**MACHINI
MOTLOUNG INC
ATTORNEYS**

LEGAL EXPERTISE EXCEEDING EXPECTATIONS

Address: 101 on Olympus
PHG Office suite, Olympus Avenue,
Pentagon Park, Bloemfontein

Office: 051 448 8831 **Cell:** +27 71 567 6544
E-mail: machini@mmincattorneys.com

5.2 The processes leading to the transportation of our client from Tanzania to South Africa.

5.3 The details (names and capacity) of your members who participated in the operation from the arrest in Tanzania to the transportation of our client to South Africa.

5.4 Certified copies of all the applications including documents used to effect such arrest and transport our client from Tanzania to South Africa.

6. Kindly be advised that the above is required on/or before 16:00 on 15 May 2023.

7. As you would appreciate the urgency of the matter, we implore you to deal with the above request with the corresponding exigency.

Yours faithfully,

**Machini Motloug
Director**

Website: www.mmincattorneys.com



**MACHINI
MOTLUNG INC
ATTORNEYS**
LEGAL EXPERTISE EXCEEDING EXPECTATIONS

ANNEXURE (C)

Address: 101 on Olympus
PHG Office suite, Olympus Avenue,
Pentagon Park, Bloemfontein

Office: 051 448 8831 **Cell:** +27 71 567 6544
E-mail: machini@mmincattorneys.com

Our Ref:M Motloug/0012023

Your Ref:

11 May 2023

Adv. Navilla Somaroo
Director of Public Prosecutions
Free State Province

CC: Mr.Sello Matlhoko
Chief Prosecutor-Bloemfontein

Delivery per hand

Dear Madam,

RE: S v NANDIPHA MAGUDUMANA
REQUEST FOR INFORMATION/DOCUMENTATION

We refer to the matter above and confirm receipt of instructions to act on behalf of Dr.Nandipha Magudumana("our client").

We consulted with our client taking full instructions in preparation for a Bail Application scheduled to proceed on 11 May 2023,

Pursuant to the above consultation, it has become imperative to seek the following details pertaining to our client's arrest;

Warrant of Arrest

1. It is common cause that a warrant of arrest was issued against our client. What is however not clear to us is the type of warrant authorized and the date issued. In light of the aforesaid, we hereby request the latter warrant of arrest.

MEM

Website: www.mmincattorneys.com



**MACHINI
MOTLOUNG INC
ATTORNEYS**

LEGAL EXPERTISE EXCEEDING EXPECTATIONS

Address: 101 on Olympus
PHG Office suite, Olympus Avenue,
Pentagon Park, Bloemfontein

Office: 051 448 8831 **Cell:** +27 71 567 6544

E-mail: machini@mmincattorneys.com

Arrest of our client in Tanzania

2. It is common cause that our client was arrested in Tanzania. However, the processes followed in securing the arrest, particularly by the South African law enforcement authorities including any other party/parties involved thereto remand elusive.

Demand

3. It is against the backdrop delineated above that we hold instructions to demand the following from your office:
 - 3.1 The processes and procedure invoked to secure the arrest of our client in Tanzania.
 - 3.2 Certified copies of all the applications including documents to effect such arrest and transport our client to South Africa.

Please note that you are required to provide the above details on/or before 16:00 on 12th instant.

Yours faithfully,

Machini Motloug

Director

Website: www.mmincattorneys.com



**MACHINI
MOTLUNG INC
ATTORNEYS**

LEGAL EXPERTISE EXCEEDING EXPECTATIONS

Address: 101 on Olympus
PHG Office suite, Olympus Avenue,
Pentagon Park, Bloemfontein

Office: 051 448 8831 **Cell:** +27 71 567 6544

E-mail: machini@mmincattorneys.com

I, Senho Maimono

the undersigned, do hereby acknowledge
receipt of this letter.

Name: Senho Maimono

Position: Prosecutor

Date: 11/5/2023

Signature: [Handwritten Signature]

Website: www.mmincattorneys.com