

# Journalist released on bail as he changes plea

 By [Gregory Gondwe](#)

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Ernest Mahwayo, the [journalist arrested](#) this week for snapping pictures of the residence of Malawian President Bingu wa Mutharika, has been granted bail. Limbe Dalton's first grade magistrate, Annie Chikhadzula, also granted the journalist an application where he requested that he change his plea.

After Mahwayo was arrested on Monday, he was charged with 'conduct likely to cause breach of peace' to which he pleaded guilty even when he was yet to appear before court.

In the court appearance on Wednesday 14 September 2011, Mahwayo through his lawyer, Lusungu Gondwe, submitted that he was changing his plea from 'guilty' to 'not guilty'.

"This is in line with the law which provides for such a change provided judgement has not already been passed," Gondwe argued.

Regional police prosecutor for the South, Dave Mtete contended that the same laws were clear, that once a plea of guilty is entered, prosecution is expected to proceed with submissions of facts.

"I therefore object to the application," said Mtete.

The first grade magistrate, however, granted Mahwayo the 'not guilty' plea that he had applied for.

## Misdemeanour

Since the case is a misdemeanour, Gondwe then demanded that his client be given bail considering that even if he were to be convicted, the law says he would pay a K50 fine or a two month jail term. Earlier on, the prosecution had indicated that they were through with investigations; in this case Gondwe said it was clear that Mahwayo could not interfere with evidence since it was a 'done deal'. The state again strongly opposed bail application.

"Giving bail to the suspect would attract public outcry and shock as the case involves a private house of President Bingu wa Mutharika," argued Mtete, who also said Mahwayo could interact with witnesses through mobile phone communication therefore he should not be given bail.

Gondwe argued that the argument by the state was weak because in the charge sheet there was no mention of the President's private residence, so there was no way this could be used as a point to deny the journalist bail.

"And even if the president was mentioned, that would not have been used as an excuse by the state, since all the people in the country are equal before the law," he said.

He also said, the argument about contact through mobile phone communication was a laughable joke because if that were the case, no court would be issuing bail on the land. The first magistrate bought the argument from the journalist's defence counsel and gave him bail and will again appear before the court on 27 September 2011 when hearing is expected to commence.

## ABOUT GREGORY GONDWE

Gregory Gondwe is a Malawian journalist who started writing in 1993. He is also a media consultant assisting several international journalists pursuing assignments in Malawi. He holds a Diploma and an Intermediate Certificate in Journalism among other media-related certificates. He can be contacted on [gregorygondwe@gmail.com](mailto:gregorygondwe@gmail.com). Follow him on Twitter at [@Kalipochi](https://twitter.com/Kalipochi).

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