

IN THE HIGH COURT OF TANZANIA
AT IRINGA

(DC) CRIMINAL APPEAL NO. 9 OF 2013

*(ORIGINATING FROM DISTRICT COURT
IRINGA ECONOMIC CASE NO. 4/2013)*

THE REPUBLIC APPELLANT

VERSUS

ELIAS S/O FUKORESPONDENT

JUDGMENT

19/05/2014

MADAM SHANGALI, J.

This appeal originates from the Economic Crime Case No. 4 of 2013 of Iringa District Court where the respondent Elias s/o Fungo was charged with the offence of being in unlawful possession of Government Trophies c/s 86 (1), (2) (b) of the Wildlife Conservation Act No. 5 of 2009 as read together with paragraph 14 (d) of the 1st Schedule to section 60 of the Economic Crime Control Act, Cap. 200 R.E. 2002.

The particulars of the offence states that on 21st April, 2013 at Migoli Village within the Rural District and in Iringa Region the accused (respondent) was found in possession of

two (2) Elephant Tusks weigh 4.450 Kgs. valued at T.Shs. 24,397,500/= being property of the Government of the United Republic of Tanzania without any permit thereof.

When the respondent was taken before the District court on 23rd April, 2013, he applied for bail pending trial and the District court magistrate granted him bail inspite of objection raised by the Prosecution side.

Dissatisfied with that decision, the appellant/Director of Public prosecution has filed this appeal to challenge and impugn that decision.

Ms. Maziku, learned state Attorney who appeared for the appellant has filed two grounds of appeal but for the purpose of the determination of this appeal, one main and fundamental ground is enough to settle the rough sea. That is, the learned District magistrate erred both in law and in fact by granting bail to the respondent without considering the fact that, the District Court have no jurisdiction to grant bail where the value of the property involved exceed ten million shillings. Ms. Maziku submitted that, that position of the law is found under section 29 (4) (d) of the Economic and Organized Crime Control Act, Cap. 200. The learned State Attorney stressed that the value of the trophy found in possession of the