

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
THE CORRUPTION AND ECONOMIC CRIMES DIVISION
AT DODOMA SUB REGISTRY**

MISC. ECONOMIC CAUSE NO. 04 OF 2017

(Originating from Dodoma District Court in
Preliminary Inquiry Economic Case No. 20 of 2017)

1. THADEI MUHALE 1ST APPLICANT
2. MERICEAD MJUBA 2ND APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

Date of Last Order: - 10/10/2017

Date of Ruling: - 16/11/2017

RULING

F. N. MATOGOLO, J.

The applicants Thadei Muhale and Mericead Mjuba, first and second applicants respectively were arraigned in the District Court of Dodoma with two counts that is: **one**; unlawful possession of narcotic drugs contrary to section 15(1)(a) and (2) of the Drugs Control and Enforcement Act No. 5 of 2015 read together with paragraph 23 of the first schedule to the Economic and Organized Crime Control Act, [CAP. 200 R.E, 2002] where it is alleged that; on 11th day of October, 2016 at Chamwino village within Chamwino District in Dodoma Region the applicants/accused persons were found in unlawful possession of 1,792.92 grams of narcotic drugs known as cannabis Indian hemp commonly known as "bhangi".

Two; prohibition for administering of narcotic drugs or psychotropic substances contrary to section 20(c) of the Drugs Control and Enforcement Act No. 5 of 2015 where it was alleged that on 11th day of October, 2016 at Chamwino village within Chamwino District in Dodoma Region the applicants/accused persons did unlawfully sell, supply and acquire narcotic drugs known as cannabis Indian hemp commonly known as "bhangi".

The applicants have filed this application for bail which is by chamber summons made under sections 148(3) of the Criminal Procedure Act, [CAP. 20 R.E, 2002], section 29(3) of the Drugs Control and Enforcement Act No. 5 of 2015 and sections 29 & 36(1) of the Economic and Organized Crimes Control Act, [CAP. 200 R.E, 2002] as amended by the Written Laws (Miscellaneous Amendments) Act No. 3/2016, although Mr Nyangarika learned advocate wrongly cited it as Act No 6/2016. The chamber summons is supported by an affidavit taken by one Paul B.S.M. Nyangarika, learned advocate for both applicants. The respondent/Republic was served with the chamber summons and the accompanying affidavit but did not file Counter Affidavit.

As pointed above, the applicants engaged legal services of Nyangarika & Company in which Mr. Paul Nyangarika, advocate appeared while Ms. Magesa, State Attorney appeared for the respondent/Republic.

The applicants' learned advocate prayed to this court for the applicants to be admitted to bail considering that the charged offences are bailable and no Certificate has been filed by the Director of Public

Prosecutions (DPP) denying bail to the applicants. Moreover, no Counter Affidavit has been preferred by the respondent to that effect.

In response, Ms. Magesa learned State Attorney submitted that; basically, the respondent does not object grant of bail to the applicants provided that the applicants comply with bail conditions to be prescribed by the Court taking into account that the charged offences are bailable. Mr. Nyangarika learned advocate had nothing in rejoinder.

Having considered the application at hand and the respective submissions by the applicants' learned counsel and the learned State Attorney, this court agrees with what the two learned counsel have submitted.

As correctly submitted by the applicants' learned counsel and as clearly stated by the learned State Attorney, essentially the respondent that does not object bail to the applicants. Moreover, the charged offences are bailable offences in terms of Drugs Control and Enforcement Act, the Economic and Organized Crime Control Act as amended by the Written Laws (Miscellaneous Amendment) Act No. 3/2016. Likewise; this Court has not been availed reasons warranting refusal of bail to the applicants. More importantly this court has jurisdiction to entertain the matter.

Therefore; this Court grants bail to the applicants in terms of sections 29(1) (b) and (3) of the Drugs Control and Enforcement Act, section 36(1) of the Economic and Organized Crimes Control Act as amended by the

Written Laws (Miscellaneous Amendments) Act No. 3/2016 and sections 148(6) & (7) of the Criminal Procedure Act under the following conditions:

1. Each applicant shall execute bail bond in of Tshs. 2,000,000/=.
2. Each applicant must produce two (2) reliable surities who should each separately execute a bond of Tshs. 2,000,000/=.
3. Each applicant should not leave Dodoma region without prior permission of the Resident Magistrate in charge of Dodoma Resident Magistrates' Court at Dodoma.
4. Each applicant must surrender to Dodoma Central Police Station his passport, and any other travelling document(s) he might be possessing.
5. Each applicant must report to Dodoma Central Police Station every Monday of the first and third week before 12:00hrs (noon).
6. Each applicant should appear before the Court on the specific time and dates as scheduled by the District Court of Dodoma.
7. Each surety produced by the applicants must be approved by the Resident Magistrate in charge of Dodoma Resident Magistrates' Court at Dodoma. By reliable sureties means, one must be in active public service or in a recognized private institution. The other must be a person of good reputation with recognized place of abode.
8. The Resident Magistrate in charge of Dodoma Resident Magistrates' Court at Dodoma must ensure that all bail conditions are accordingly met and implemented before and after releasing the applicants on bail as above prescribed.

Order accordingly.




F.N. MATOGOLO
JUDGE
16/11/2017