

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
THE CORRUPTION AND ECONOMIC CRIMES DIVISION  
AT SONGEA**

**MISC. ECONOMIC CAUSE NO. 1 OF 2018**

(Originating from Mbinga District Court Economic Case No. 01 of 2018)

**DAMIAN DAMIAN LUENA..... APPLICANT**

**VERSUS**

**THE REPUBLIC ..... RESPONDENT**

**RULING**

**January 15 & 16, 2018**

**MATOGOLO, J.**

This is an application by one Damian Damian Luena the applicant.

The application was filed by Mr. Dickson Ndunguru advocate for the applicant on this behalf. The applicant is praying to be released on bail pending applicants' trial in Economic Case No. 1/2018 at Mbinga District Court. The application is by chamber summons supported by an affidavit taken by Mr. Dickson Ndunguru applicant's' advocate. The application was preferred under section 29 (4) (d) and section 36 (10) of the Economic and Organized Crimes Control Act, [cap. 200 R.E 2002] at the hearing Mr. Dickson Ndunguru learned advocate appeared for the applicant. Miss. Amina Mawoko learned State Attorney appeared for the

respondent/Republic. In arguing the application Mr. Ndunguru prayed to the court to adopt the grounds stated in the affidavit and he stated further that it is a legal requirement to apply for bail to this court and he assured this court that the applicant cannot jump bail when he will be released on bail. He therefore asked this court to grant bail to the applicant and impose reasonable conditions.

On her part Miss Amina Mawoko learned State Attorney essentially did not object the application. She said since this court has jurisdiction to entertain the application and grant bail to the applicant pursuant to the law cited by the applicant's advocate in the chamber summons and for the grounds which has been adduced by the learned advocate on behalf of the applicant and for sake of justice the applicant may be released on bail. But Miss. Amina Mawoko had an observation that in the chamber summons, the learned advocate did not cite Act No. 3/2016 which amended Cap. 200 and established this division of the High court under S. 3. Even though she said for sake of justice still the applicant may be released on bail. Mr. Ndunguru advocate also conceded to the omission, but, like the learned State Attorney prayed for this court to grant bail to the applicant.

Having heard Mr. Ndunguru learned advocate and Miss. Amina Mawoko learned<sup>1</sup> State Attorney who essentially did not object the bail application. And after go through the court record and the documents filed by the applicant's advocate, although he did not cite Act. No.3/2016 which amended Cap. 200 R.E. 2002 and established this division of the High Court, still for sake of justice this court can grant bail to applicant. The cited provisions S. 29 (4) (d) and S. 36 (1) of the Economic and organized

Crimes Control Act, which provide for the procedure in economic cases bail application moves this court to do what is asked to do. The respondent did not raise any objection to bail. But also there is no any other reason furnished to this court warranting denial of bail to the applicant. Above all the charged offence is bailable, and there is no my evidence to show that the applicant was previously granted bail but jumped bail, nor was he previous convicted in a criminal charge and sentence to imprisonment for more than three years. There is no reason why the applicant should not be granted bail. Bail is a constitutional right to any suspect unless the law so prohibit. I therefore grant the application. The applicant may be released on bail upon fulfilling the following conditions;-

1. As the amount of loss alleged to have been occasioned is Tshs. 18,700,000/= thus above ten million shillings, the applicant shall deposit in court cash, Tshs. 9,350,000/= being half of the alleged occasioned loss. Alternatively the applicant shall deposit in court Title deed of immovable property of value not less that Tshs. 9,350,000/= The title deed must has approval by the Registrar of Titles/Commissioner for land or any other recognized person acting on that behalf. For unregistered land, the same must have ownership proof from local authority leaders, the street chairperson or village chairperson in addition by the Ward Executive Officer. The immovable property must be located within Ruvuma Region, and must be free from any encumbrance including but not limited to mortgage, sale, assignment, transfer etc.

2. The applicant shall produce two reliable sureties. One must be government employee who must produce letter of identification from employer. The other surety must be employee of any recognized private institution or any other person of good reputation and recognized in the society or community he is living with a recognized place of abode. This must have letter of identification from employer/local authority leaders, ward Executive officer as the case may be.
3. The applicant shall not travel outside jurisdiction of the district court of Mbinga without any permission from the Resident Magistrate incharge of that court.
4. The applicant has to surrender to the OC CID Mbinga his passport or any other travelling document.
5. The applicant has to report to the OC CID Mbinga once in a month as will be scheduled by the OC CID.
6. The Resident Magistrate incharge Mbinga District Court shall approve the sureties and bail documents before the applicant is released on bail.

It so ordered



  
**F. N. MATOGOLO**  
**JUDGE**  
**16/01/2018**