

**IN THE HIGH COURT OF TANZANIA
CORRUPTION AND ECONOMIC CRIMES DIVISION**

AT SONGEA

MISC. ECONOMIC CAUSE NO. 12 OF 2018

**(Originating from Tunduru District Court Economic Case No.
3/2018)**

1. MOHAMED ALLY MACHUPA
2. IBADI MAMBO JUMO
3. HASSAN BAKARI MDOKA } **APPLICANTS**

VERSUS

THE REPUBLIC RESPONDENT

RULING

MATOGOLO, J

The applicant namely Mohamed Ally Machupa, Libadi Mambo Jumo and Hassan Bakari Mdoka, first, Second and third applicant respectively, are arraigned in the District Court of Tunduru with two counts, unlawful possession of Government trophy and unlawful dealing in Government

trophy as the first and second count respectively. It is alleged that on 4th April, 2018 at Namwinyu Village Tunduru District they were found in unlawful possession of three pieces of Trophy weighing 5.8 kgs valued at Tshs. 67,500,000/= the property of the Government of the United Republic of Tanzania without valid permit from the Director of Wildlife.

The three through their advocate Mr. Kaukuya Yusuph Kaukuya have filed this application for bail. The application is by chamber summons made under section 29(4)(d) and section 36(1) of the Economic and Organized Crime Control Act, Cap 200 R.E. 2002. The same is accompanied by an affidavit taken by Mr. Kaukuya Yusuph Kaukuya.

At the hearing, Mr. Kaukuya Yusuph Kaukuya learned advocate appeared for the applicants. Mr. Medalakini Emmanuel learned State Attorney appeared for the respondent. It is the submission of the learned advocate that the contents of their affidavit be adopted and form part of his submission. He said the charged offences are bailable and this court has jurisdiction to entertain the application. That under Article 13 (6)(b) of the constitution, the applicants are presumed innocent until when proved otherwise.

Their continued incarceration amounts to punishing them before their guilt is established. He therefore prayed to this court to release the applicants on bail.

On his part Mr. Medalakini Emmanuel learned State Attorney essentially did not object bail to the applicants. He only prayed to the court to impose bail conditions which will procure their attendance in court.

There is no dispute that the application is properly before the court. But the applicants ought also to cite Act No. 3/2016 as an amendment Act Cap. 200. However failure to cite it did not occasion any injustice. Provided that the charged offences are bailable and the respondent did not object bail to the applicants, further more as there is no any other reason furnished to this court justifying denial of bail, I grant the application. The applicants may be released on bail upon fulfilling the following conditions:-

1. Each applicant shall pay cash deposit in court of Tshs. 11,265,000/= being half of Tshs. 67,590,000/= divided to three applicants under the principle of sharing.

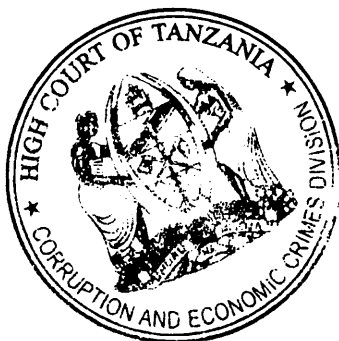
ALTERNATIVELY

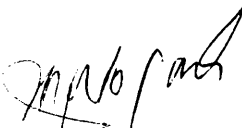
Each applicant shall deposit title deed of immovable property or any other form of evidence of ownership of that immovable property from a recognized Government Officer of valued not less than Tshs.

11,265,000/=. The immovable property must be located within Ruvuma Region.

2. Each applicant shall finish two reliable sureties residents of Tunduru District with recognized place of abode who each shall sign bail bond in the sum of Tshs. 5,000,000/=.
3. The applicants shall not leave jurisdiction of Tunduru District Court without prior permission by the Resident Magistrate Incharge of Tunduru District Court
4. The applicants have to report to the OCCID Tunduru on every Friday of the first week and third week of a month.
5. The applicants must make sure that they attend in court on the scheduled dates without fail.
6. The Resident Magistrate Incharge of Tunduru District Court shall approve the sureties and all bail documents before the applicants are released on bail.

Ordered accordingly.

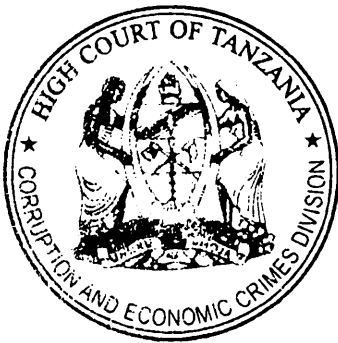



F.N. MATOGOLO
JUDGE

16/07/2018

COURT:

Ruling delivered this 16th day of July, 2018 in the presence of the applicants, their advocate Mr. Kaukuya Yusuph Kaukuya, and in the presence M/s Jenerosa Montano learned State Attorney.




F.N. MATOGOLO
JUDGE

16/07/2018