

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA**

MISC. CRIMINAL APPLICATION NO. 16 OF 2018

(Arising from the Resident Magistrate's Court of Arusha Eco. Case No. 24 of 2017)

AMOS S/O WILSON SHANYANGI @KIPARA.....APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

DR.OPIYO, J.

The applicant, Amos Wilson Shanyangi @ kipara filed the present application. The same is brought under section 29(4) (d) and section 36 (1) of the Economic and Organized Crime Act, Cap 200 R.E 2002 and any other enabling provisions of the laws. The application is supported by an affidavit duly sworn by the applicant Amos Wilson Shanyangi @ kipara.

On 11th April, 2018 when the matter was scheduled for hearing the applicant was represented by Mr. Moses Ntumengwa learned, advocate while the respondent was represented by Ms. Naomi, learned State Attorney. Objecting the application, learned State Attorney argued that, the applicant herein had already applied for bail in Application No. 58/2017 but the Republic filed DDP'S certificate objecting bail and on 9/8/2017 the

court denied the applicant bail due to the DPP's certificate in question, it is her presupposition that as long as the certificate was not withdrawn it remain valid in objecting bail to the completion of the matter. Since the trial has not been completed, it is their prayer that the re-application for bail is misconceived; hence it ought to be dismissed.

Responding to the learned State Attorney argument Mr. Ntumengwa argued that, the applicant brought his application praying for bail, as the certificate in question had no reasons on how Republic will be jeopardized, if the applicant is granted bail, thus it contravenes court proceedings by filling this certificate late instead of at the time of filing charge sheet. It was the learned counsel's prayer that the applicant be granted bail as he requested in his application.

In her reply to the counsel's arguments, Ms. Naomi learned State Attorney argued that, what the counsel is submitting is an afterthought because the same has already been argued in Application No. 58/2017 and the same was denied. She argued that they are not filing a new certificate, but argue that the Court order still stands, thus the application lacks legsto stand on. It should therefore be dismissed.

I have considered parties arguments to this application, the applicant is praying for bail pending hearing of his case, (economic case No 24/2017) before the Resident Magistrate's Court of Arusha. It is undisputed that the applicant herein had already applied for bail in and was denied the same in

Criminal Application no 58/2017 before this same court after the DPP filed the certificate objecting his commitment to bail. In my considered view, as correctly argued with Naomi, Learned State Attorney, as long as the DPP's certificate was never withdrawn, it remains valid in objecting commitment of applicant to bail pending completion Eco. Case No 24 of 2017. The said Eco. Case No. 24 of 2017 has not been completed. It follows therefore that such re-application for bail is a misconception. In the circumstances, the misconceived application is accordingly dismissed.

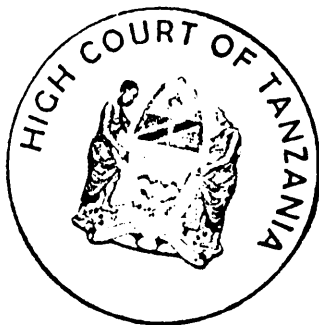
(Sgd)

DR.M. OPIYO,

JUDGE

4/5/2018.

I hereby certify this to be a true copy of the original.



A handwritten signature in black ink, appearing to read "D. K. Kamugisha", is written over a horizontal line.

D. K. KAMUGISHA,
Ag. DEPUTY REGISTRAR

ARUSHA