

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

AT ARSHA

MISC. CRIMINAL APPLICATION NO.35 OF 2018

LIDYA PETRO MBISEAPPELLANT

VERSUS

THE REPUBLIC..... RESPONDENT

RULING

MAIGE, J.

This is an application for bail pending hearing and determination of the Criminal case No. 43 of 2018 at the Resident Magistrates Court in Arusha. The offense with which the applicant is charged is trafficking Narcotic drugs contrary to section 15 (1) (a) of the Drugs Control and Enforcement Act No. 5 of 2015. The particulars of the offence indicates that the applicant was found trafficking 43.5 kilograms of Narcotic drugs.

On the date of hearing, the applicant appeared in person and was not represented. She submitted that she was entitled bail because she was given the drugs in question by her nephew without knowing that it was as such. She adopted the factual deposition in the affidavit and prayed that the application be granted.

Mr. Charles Kagilwa, learned state attorney who represented the Republic, submitted, correctly in my view that, under section 29(1) (a) of the Drugs Control and Enforcement Act No. 5 of 2015 as amended by section 13 (a) (i) of the Act No. 15 of 2017, this Court is precluded from admitting into bail an accused charged with an offence of trafficking cannabis, among other drugs, where the amount involved exceeds 20 grams.

My understanding of the provision just referred is that the jurisdiction of this Court to admit and accused into bail he who is charged with an offence of trafficking drugs that which is above 20 grams has been excluded. The drugs involved in the instant case being 43.5 kilograms, it is above the pecuniary jurisdiction of this Court.

In the circumstance, the application shall not succeed. It is accordingly dismissed. The file should be remitted to the trial court of continuation of the trial.

It is so ordered.

Right to appeal duly explained.

(Sgd) I.MAIGE

JUDGE

12/ 09/2018

Delivered this 12th day of September 2018 in the presence of the applicant in person and Charles Kagilwa, learned state attorney.

**(Sgd) I.MAIGE
JUDGE**

12/ 09/2018

Date:-12/9/2018

Coram: Maige, J

Applicant:-

For the Applicant: Present

Respondent:

For the Respondent: Mr. Chalres Kagirwa, Advocate

C/C:- Mariam.

(Sgd) I.MAIGE

JUDGE

12/ 09/2018

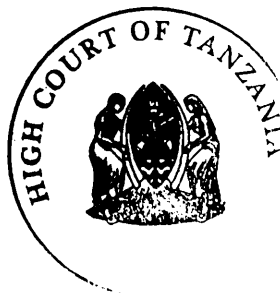
Court:- Ruling delivered; application dismissed.

(Sgd) I.MAIGE

JUDGE

12/ 09/2018

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



J.F. Nkwabi
J.F. NKWABI,

DEPUTY REGISTRAR

ARUSHA

28/09/2018