

**IN THE HIGH COURT OF TANZANIA**  
**DAR ES SALAAM DISTRICT REGISTRY**  
**MISC. CRIMINAL APPLICATION NO.108 OF 2019**

(Originating from Economic Case No. 47 of 2018 in the Resident Magistrates of  
Dar es Salaam at Kisutu)

**KEFASI JACKOB MLEZI.....1<sup>ST</sup> APPLICANT**

**JUMA SALUM MTALI.....2<sup>ND</sup> APPLICANT**

**GREYSON CHARLES MUHAPA@ MASU..... 3<sup>RD</sup> APPLICANT**

**VERSUS**

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

**RULING**

Date of last order: 12/9/2019

Date of Ruling: 03/10/2019

**NGWALA, J.**

This application for bail pending trial and final determination of the Economic Case No.47 of 2018, before the Resident Magistrate Court at Kisutu, has been made under Sections 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, [Cap 200 R: E 2002].

All the three applicants were unrepresented. Their Application is supported by a joint affidavit sworn by all applicants. They prayed for lenient bail conditions, as they have no title deeds.

In the counter affidavit sworn by Elizabeth Mkunde the learned State Attorney on behalf of the Republic it averred among others that, the offences the applicants are charged with, are serious and carry severe punishment, including long custodial sentence.

The respondent Republic was represented by the learned State Attorney Miss Tully Helela, who did not object the application but prayed the court to take into consideration the conditions stipulated under the cited provisions of the law when granting the bail as the applicants are charged with Economic Offences whose value exceed Tsh. 10,000,000/=.

In rejoinder, all applicants promised to comply with the conditions to be set by this court.

With that foregoing submissions in regard, as the offence of unlawful possession of Government trophies, contrary to Section 86(1) and (2)(c)ii of the wildlife conservation Act, No.5 of 2009 read together with Paragraph 14 of the First Schedule and Section 57(1) and 60(2) of the Economic and Organised Crime control Act, [Cap. 200 R.E. 2002] as amended is bail able; I wish to refer to the cited provisions of **Sections 29(4)(d) and 36(1) of the Economic and**

**Organized Crime Control Act, [Cap 200 R.E. 2002]** as provided hereunder;

*“29(4) (d) in all cases where the value of any property involved in the offence charged is ten million shillings or more at any stage before commencement of the trial before the Court is hereby vested in the High Court.*

*“36 (1) after a person is charged but before he is convicted by the Court, the Court may on its own motion or upon an application made by the accused person, subject to the following provisions of this section, admit the accused person to bail.*

Though the applicants and respondent Republic only cited Sections 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, [Cap 200 R.E. 2002], I find the appropriate provision applicable is **Section 36(5)(a) as amended by Section 10 Of The Written Laws (Miscellaneous Amendment) Act, No.6 of 2016.** It provides,

*“Where the offence with which the person is charged involves actual money or property*

*whose value exceeds ten million shillings, unless that person deposit cash or other property equivalent to half the amount or value of actual money or property involved and the rest is secured by execution of a bond.*

*Provided that where the property to be deposited is immovable, it shall be sufficient to deposit a title deed, or if the title deed is not available such other evidence as is satisfactory to the court in proof of existence of the property...”*

In consideration of the respective reasons provided and cited provisions of the law, this court shall grant bail upon fulfillment of the following conditions; -

1. Each applicant has to execute a bail bond to the tune of Tshs. 39,917,500/=.
2. Each applicant shall have two credible sureties with fixed abode within Tanzania.
3. Each of the two sureties shall execute separately a bail bond in a sum of Tshs. 39,917,500/=one of the sureties shall either be a government employee or a person employed in

a recognized public entity. The other surety must produce proof of immovable property within the jurisdiction of the trial court.

4. Applicants should not leave Dar es Salaam region without prior permission of the Resident Magistrate Incharge of Kisutu Resident Magistrate Court.
5. The applicants must attend in court on every date their case is scheduled.
6. The applicants have to surrender to the Zonal Crimes Officer of Dar es Salaam the passports and travelling documents if any.
7. The Resident Magistrate Incharge of Dar es Salaam at Kisutu has to approve the sureties and bail documents before the applicants are released on bail.

**Order Accordingly.**



*A.F. Ngwala*  
**A.F. NGWALA**  
**JUDGE**  
**03/10/2019**