

**IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**MISC. CRIM. APPLICATION NO. 117 OF 2019**

**HAMISI HASSAN JUMANNE.....APPLICANT**

**VERSUS**

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

*(Origin Economic Crime Case No. 28 of 2017, at Kibaha Resident  
Magistrate's Court)*

**RULING**

*Date of Last Order: 2/10/2019*

*Date of Ruling: 31/10/2019*

**S.M. KULITA, J.**

This is an application for bail pending trial at the Resident Magistrate's Court of Kibaha at Kibaha in Economic case no.28 of 2017. The application is made under section 29(4) and section 36(1) of the Economic and Organized Crime Control Act Cap [Cap 200 R.E. 2002].

The applicant prays for the following orders to be granted by this court;

- (i) That this court releases him on bail upon conditions to be set, pending his trial at the Resident's Magistrate's court.
- (ii) Any other relief or orders as this court may deem fit to grant.

The application is supported by chamber summons and an affidavit sworn by Emily Laus Christant, Advocate for the applicant. In his affidavit as well as the oral submissions the Advocate submitted that the application has been made under section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act [CAP 200 R.E.2002]. He said that the trophies involved in the matter are valued at the sum of Tshs. 33,645,000/=. As the said value exceeds Tshs. 10,000,000/= the Resident Magistrate's Court could not grant bail for want of jurisdiction.

He submitted that on the 14<sup>th</sup> December, 2019 the applicant was charged with two counts at the Resident Magistrate's Court of Kibaha at Kibaha. The first count is *"being found in unlawful possession of government trophies"* which are four elephant tusks valued at Tshs. 33,645,000/=. The second count is *"unlawful dealing of Government trophies"*.

The Advocate stated that the applicant has no criminal records and that he is not likely to jump bail. He submitted that the

applicant has a fixed place of abode and reliable sureties for him to be released on bail. He further stated that the applicant has no any previous criminal record. He concluded by praying the application to be allowed.

In her reply to the application the Respondent's Counsel, Ms. Tully Helela, Learned State Attorney for the Republic submitted orally what have been stated in the counter affidavit that the applicant stands charged with two counts at the Resident Magistrate's Court for Coast Region at Kibaha in Economic Crime Case No. 28/2017, and that the Consent and Certificate to confer jurisdiction are not yet lodged at the said Resident Magistrates' Court. Ms. Tully Helela submitted that they did receive copy of chamber summons and affidavit and that upon going through it they did find that the court has been properly moved through section 29(4)(d) and section 36(1) of the Economic and Organized Crime Control Act [Cap 200 R.E. 2002]. She said that this court has jurisdiction to entertain the application as the value of the properties that the accused has been charged with exceeds Tshs. 10,000,000/=. However, the Respondent's Counsel stated that the offences which the applicant has been charged with are serious and carry severe punishments including long custodial sentences, hence the court should consider the conditions that have been stipulated

under sections 36(5) and (6) of the Economic and Organized Crime Control Act [Cap 200 R.E 2002].

In the rejoinder Mr. Emily Laus Christant, Advocate submitted that it the court's discretion to impose the bail conditions by regarding the presumption of innocence to the accused.

Upon hearing submissions from both parties and upon going through the pleadings which form part of the submissions to the respective parties, there is no doubt that this application is uncontested. The applicant can be released on bail subject to the fulfillment of the conditions set by section 36(5) and (6) of the Economic and Organized Crime Control Act [Cap 200 R.E 2002] which among other things requires the accused person (applicant) to pay cash bond or submit to court the security (preferably title deed) whose value is at least half of the value of the property (subject matter in question) and the rest be executed by promissory bond.

According to the copy of charge sheet, the subject matter in question is valued at Tshs. 33,645,000/=, the said amount should be divided into half i.e Tshs. 16,882,500/= of which can be executed as stated above.

From the aforementioned reasons I hereby grant bail to the applicant upon fulfilling the following conditions;

- (1) The applicant or any other person who is a resident of Coast Region, on his behalf should submit cash bond at the sum of Tshs. 16,882,500/=, alternatively to submit the title deed(s) carrying the immovable property valued at that sum.
- (2) The applicant should bring one surety, a resident of Coast Region, who will execute a promissory bond of the same amount, Tshs. 16,882,500/=
- (3) The applicant to surrender his travel documents to the trial court.
- (4) The applicant should not leave the country without permission of the trial court.

The parties to appear before the Deputy Registrar for execution of the bail conditions.



**S.M. KULITA**

**JUDGE**

**31/10/2019**

