

**IN THE UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**

**(DISTRICT REGISTRY OF MBEYA)**

**AT MBEYA**

**MISC. CRIMINAL APPLICATION NO. 27 OF 2020**

(Arising from Economic Case No. 22 of 2019 in the Resident Magistrates'

Court of Mbeya at Mbeya)

**IGELELE DANIEL DAMAS.....1<sup>ST</sup> APPLICANT**

**NYILENDA JOHN DAIMON.....2<sup>ND</sup> APPLICANT**

**VERSUS**

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

**RULING**

Date of Hearing: 19/05/2020

Date of Ruling : 19/05/2020

**MONGELLA, J.**

This Ruling follows an application for bail by the applicants filed in this Court by the applicants' Advocate, Ms. Nyansige Kajanja. The application was filed under section 29(4)(d) and 36(1) of Economic and Organised,

Crime Control Act, Cap 200, R.E. 2002 (EOCCA) as amended by Act 3 of 2016 and was supported by an affidavit jointly sworn by the applicants.

The applicants are praying to be granted bail pending hearing and final determination of Economic Crime Case No. 22 of 2019 now pending before the RM's Court of Mbeya.

The charge sheet reveals that the applicants are facing one count being: Unlawful possession of government trophy contrary to section 86 (1) (2) (c) (ii) and (3) of the Wildlife Conservation Act, No. 5 of 2009 as amended, read together with paragraph 14 of the First Schedule and section 57(1) and section 60(2) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2002 as amended.

As per the EOCCA and the submissions made by the learned Advocate for the Applicant the said offences are within the jurisdiction of this Court. The amount involved in the charge exceeds ten million thus within the jurisdiction of this Court.

In her submission, Ms. Kajanja submitted that the offence the applicants are charged with is bailable and the applicants are well behaved and have reliable sureties. She submitted that the applicants have no previous

record of jumping bail and have a fixed place of abode. On these reasons she prayed for the bail to be granted by this Court.

The Respondent, represented by Ms. Hannarose Kasambala, learned State Attorney, did not oppose the bail but urged the Court to be guided by the provisions of section 36(5) & (6) of the EOCCA if bail is to be granted. She submitted that the applicants and their sureties should deposit property or cash half of what is claimed in the charge and should be restricted to travel. She also added that the applicants should be required to report to the police or court whenever needed to do so.

I have considered the arguments by both counsels and I am of the view that since the offences are bailable I do not see any reason to deny bail to the applicants so long as the same is granted with conditions provided under the law. The question of bail on economic offences that are bailable has been considered in a number of cases including **DPP vs. Aneth John Makame, Criminal Appeal no. 127 of 2018; Meshack Lupakisyo Kapange & Another vs. The Republic, Criminal Case no. 8 of 2019; and Athanas Sebastian Kapunda and Others vs. Republic, Misc. Economic Cause no. 7 of 2017** whereby in all these cases the court granted bail basing on section 36(5) and (6) of EOCCA.

I therefore proceed to grant the bail application upon the following conditions:-

1. Each of the applicant should deposit **T.shs. Seventeen Million two hundred and forty one thousand (17,241,000/-)** being his portion out of half of the total amount of the value stated in the charge, that is, T.shs. 68,964,000/- or property of equal value to the amount to be deposited.
2. Each applicant should provide two sureties, whereby each surety shall execute a bond of Tshs. 8,620,500/-. The sureties must be residents within the jurisdiction of the Resident Magistrates' Court for Mbeya.
3. Where the applicants opt to deposit immovable properties in compliance with the conditions set herein, it shall suffice for them to deposit title deeds. Where the title deeds are unavailable, sufficient evidence must be provided with respect to the existence and ownership of such title deeds or properties.
4. The applicants must surrender all travel documents, if any, to the Resident Magistrate presiding over their case in the RM's Court for Mbeya. Where the applicants claim not to possess any travel

documents, proof to that effect must be obtained from the Immigration Authority.

5. The applicants must not to leave the jurisdiction of this Court Sub Registry Mbeya without written permission of the presiding Resident Magistrate at the Resident Magistrates' Court for Mbeya.
6. The applicants must report in person to the presiding Resident Magistrate at the Resident Magistrates' Court for Mbeya whenever needed to do so.
7. Verification of sureties and bond documents shall be effected by the presiding Resident Magistrate at the Resident Magistrates' Court for Mbeya.

It is so ordered.

Dated at Mbeya on this 19<sup>th</sup> day of May 2020

  
**L. M. MONGELLA**  
**JUDGE**

**Court:** Ruling delivered in Mbeya, through video conference, on this 19<sup>th</sup> day of May 2020 in the presence of the applicants and their advocate, Ms. Nyansige Kajanja and Ms. Hannarose Kasambala, learned State Attorney for the respondent

  
**L. M. MONGELLA**  
**JUDGE**

