

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

MISC. CRIMINAL APPLICATION NO. 53 OF 2020

*(Originating from Economic Crime Case No. 99 of 2019, pending in the
Resident Magistrates Court for Dar es salaam Region at Kisutu)*

MICHAEL NINA @ STELU APPLICANT

VERSUS

THE REPUBLIC (DPP) RESPONDENT

RULING

Date of Last Order: 11th May 2020

Date of Ruling: 18th May 2020.

E. E. Kakolaki, J

This is an application for bail by the applicant preferred under S. 29(4) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2002] as amended by Written Laws (Misc. Amendment) Act No. 3 of 2016 and any other enabling law. It is supported by the affidavit sworn by the applicant one Michael Nina @ Stelu.

The applicant was arraigned before the Resident Magistrate's Court of Dar es Salaam at Kisutu, facing charges on two counts. The first Count

is Unlawful Possession of Fire Arm contrary to section 20(1)(a) and (2) of the Firearms and Ammunition Act No. 2 of 2015 read together with paragraph 31 of the first schedule to and section 57(1) and 60(2) of the Economic and organized crime control Act [Cap. 200 R.E. 2002] as amended by Written Laws Miscellaneous Amendment Act No. 3 of 2016. The second count is of Unlawful Possession of Ammunition contrary to section 21 of the Firearms and Ammunitions Act, No. 2 of 2015 read together with paragraph 31 of the first schedule to and Section 57(1) and 60(2) of the Economic and organized Crime Control Act, [Cap. 200 R.E. 2002] as amended.

On the first count it is alleged that on 04/07/2019 at Mbezi Tangibovu area within Kinondoni District in Dar es Salaam Region, the applicant was found in possession of one Pistol make FAITH 13 with serial No. T 0620-10J00535 without a valid licence, whereas in the second count is alleged on the same date and place the applicant was also found in possession of 9 ammunitions without valid permit or licence.

When the matter came for hearing before me on 11/05/2020 the applicant's appearance was dispensed with due Covid19 pandemic whereas the Republic (Respondent) was represented by Mr. Adolf Kisima learned State Attorney. Mr. Kisima for the respondent from the outset notified the court that the respondent was not objecting the application and urged the court to proceed in absence of the applicant as by doing so the applicant would not be prejudiced anyhow. The court agreed with the learned State Attorney and proceeded with hearing in absence as doing so would be in the interest of justice.

In determining this application the court relied on the applicant's affidavit. The Applicant in his paragraphs 3 to 7 of his affidavit stated that the economic offences with which he is facing are bailable. That, the only problem was that they do not involve any amount of money for him to decide which court he should apply for bail between the subordinate courts and the High Court. He however believes the High Court has inherent powers and therefore seizes jurisdiction to entertain this application as his case is yet to be committed to the Corruption and Economic Crime Division of the High Court. He averred further in paragraphs 11 and 12 of this affidavit that he has reliable sureties and he is ready to meet bail conditions provided by the court should his application be granted. He therefore prayed this court to grant the application as prayed in the chamber summons.

As stated earlier Mr. Kisima learned State Attorney for the respondent informed the court that having gone through the applicant's affidavit and its annexures he is satisfied that the offences with which the accused is charged with are bailable. And for that matter the respondent does not object to the grant of the application. He only prayed the court when considering the bail conditions to be guided by the provision of Section 36(5) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2002] as amended.

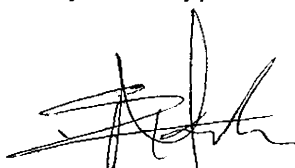
Having perused the application and its annexure and having considered learned State Attorney's submission it is evident to the court that the offences facing the accused are bailable. It is also true as averred by the applicant that the arm and ammunitions involved in the charge have not been assigned any value. Given the fact that the respondent is not objecting to the grant of the application, this court is hereby granting

the same as prayed. The applicant has to comply with the following conditions:

1. Each applicant to sign a bail bond to the tune of Tshs. 5,000,000/=.
2. The applicant to provide two reliable sureties who are to execute a bond of Tshs. 5,000,000/= each, and to satisfy that sureties have to be either employees of the Government or should possess a National Identity Card issued by NIDA and are residences of Dar es salaam Region.
3. The applicant should not leave the jurisdiction of the court without permission from the Resident Magistrate Court at Kisutu, Dar es Salaam.
4. The applicant to report to the Regional Crimes Officer for Dar es Salaam Region according to the schedule prescribed by him.
5. Verification of sureties and bond documents to be executed by the Resident Magistrate Court at Kisutu, Dar es Salaam.
6. The applicant to surrender his passport and any other travelling documents to the Resident Magistrate Court at Kisutu Dar es Salaam.

It is so ordered.

DATED at DAR ES SALAAM this 18th day of May, 2020.

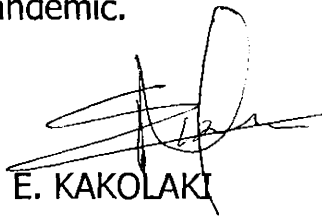


E.E. KAKOLAKI

JUDGE

18/05/2020

Ruling delivered today 18th day of May, 2020 in the presence of Mr. Adolf Kisima, State Attorney for the Respondent, Ms. Monica Msuya, Court clerk and in the absence of the applicant as his appearance is dispensed with due to Covid19 pandemic.



E. E. KAKOLAKI

JUDGE

18/05/2020