

IN THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF MBEYA)

AT MBEYA

MISC. CRIMINAL APPLICATION NO. 65 OF 2020

ing from Economic Crimes Case No. 01 of 2020 in the District Court of
Momba at Chapwa)

JOSEPH KAZUMBA CHAMBANENGE.....APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

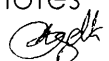
RULING

Date of Hearing: 21/07/2020

Date of Ruling : 22/07/2020

MONGELLA, J.

The applicant is seeking for bail pending trial of Economic Crimes Case No. 01 of 2020 in Momba District Court at Chapwa. He filed this application under section 29 (4) (d) and 36 (1) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2019. In this case he stands charged with two counts being: first count, leading organised crime contrary to section 4 (1) (d) of the First Schedule to and Section 57 (1) and 60 (2) (3) (a) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2019. Second count, unlawful possession of forged bank notes



contrary to section 348 of the Penal Code, Cap 16 R.E. 2019. On the first count, it was alleged that between 1st April 2020 and 9th April at Zyagwila street Tunduma township within Momba District in Songwe region, the applicant intentionally did organise a crime racket and made forged 500 notes of Zambian Kwacha valued at ZK 100 each with the total value of T.shs. 61,518,153/-. On the second count, it was alleged that on 9th April 2020 at around night hours at Zyagwila street Tunduma township within Momba District in Songwe region, the applicant was found in unlawful possession of counter feinted 500 notes of Zambian Kwacha valued at ZK 100 each with the total value of ZK 500,000/-.

The application was heard orally through virtual court. The applicant was represented by Ms. Nyasige Kajanja, learned advocate while the respondent was represented by Mr. Hebel Kihaka, learned State Attorney.

Ms. Kajanja submitted shortly in support of the application. She argued that the two offences which the applicant stands charged with are bailable under the law. She added that bail is a constitutional right which the applicant has and that the applicant is a good person with reliable sureties.

On his part, Mr. Kihaka did not challenge the granting of bail to the applicant, but urged the Court to consider the requirements set out under section 36 (5) & (6) of the Economic and Organised Crime Control Act while granting the bail because the offences charged exceed 10 Million T.shs.



I have considered the submissions by both counsels. The Court has previously considered the question of bail on economic offences that are bailable 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.*** In all these cases the court granted bail basing on conditions set under section 36(5) and (6) of EOCCA as prayed by Mr. Kihaka.

No concerns have been raised by the respondent to oppose the grant of bail and I also see no reason to deny the applicant his right to bail. I therefore proceed to grant the bail application upon the following conditions:-

1. The applicant should deposit **T.shs. 30,760,000/-** being half of the total amount of the value stated in the charge with respect to the first count, that is, T.shs. 61,518,153/- and Zambian Kwacha to the tune of **ZK 250,000/-** being half of the total amount of the value stated in the charge with respect to the second count or property of equal value to the amount to be deposited for both counts. The amount in Zambian Kwacha shall be converted into Tanzanian Shillings at the time of deposit.



2. The applicant should provide two sureties, whereby each surety shall execute a bond of **T.shs. 15,380,000/-**. The sureties must be residents within the jurisdiction of the District Court of Momba.
3. Where the applicant opts to deposit immovable properties in compliance with the conditions set herein, it shall suffice for him 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 applicant must surrender all travel documents, if any, to the Resident Magistrate presiding over his case in the District court of Momba. Where the applicant claims not to possess any travel documents, proof to that effect must be obtained from the Immigration Authority.
5. The applicant must not to leave the jurisdiction of this Court Sub Registry Mbeya without written permission of the presiding Resident Magistrate at the District court of Momba.
6. The applicant must report in person to the presiding Resident Magistrate at the District court of Momba whenever needed to do so.



7. Verification of sureties and bond documents shall be effected by the presiding Resident Magistrate at the District court of Momba.

It is so ordered.

Dated at Mbeya on this 22nd day of July 2020


L. M. MONGELLA
JUDGE

Court: Ruling delivered in Mbeya, through virtual Court, on this 22nd day of July 2020 in the presence of the applicant and his advocate, Ms. Nyansige Kajanja and Mr. Hebel Kihaka, learned State Attorney for the respondent


L. M. MONGELLA
JUDGE

