

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**MISCELLANEOUS CRIMINAL APPLICATION NO.3 OF 2020**

(Arising from Economic Case No. of 2019 filed in the District Court of Kisarawe)

**1. Abdallah Ally ..... APPLICANTS**

**VERSUS**

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

**RULING**

*Date of Last Order: 17.02.2020*

*Date of Ruling: 19.02.2020*

**Ebrahim, J:**

This is an application for bail pending trial filed under the certificate of urgency. The application is made under **Section 29(4) (d) and 36(1) of the Economic and Organised Crimes Control Act, Cap. 200 R.E 2002 (the Act)** as amended by the **Written Laws Miscellaneous Amendments Act No. 3 of 2016**. The applicant is praying for bail in respect of Economic Case pending at the District Court of Kisarawe. The

chamber application is supported by an affidavit of Steven Bwana, the legal counsel for the applicant.

Brief background of this application as could be discerned from the charge sheet appended with the application and the affidavit is that the applicant has been arraigned at the District Court of Kisarawe with an economic case charged with one count of unlawful possession of Government Trophies contrary to **section 86(1)(2)(c)(i) and (3) (ii) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14(d) of the First Schedule to, and section 57(1) and 60(2) of the Economic and Organized Crime Control Act, Cap 200 RE 2002.**

It is alleged that the applicant on 29<sup>th</sup> November 2019 at about 1300hrs at Kauzeni TFS gate within Kisarawe District in Coast Region was found in unlawfully possession of Government Trophies without permit, to wit 67 pieces of elephant meat and 10 pieces of Giraffe meat. The cumulative value of the subject matter is TZS 68,991,000/- the property of the United Republic of Tanzania.

At the hearing of this application, the applicant was represented by Mr. Steven Bwana learned advocate; and the Republic was represented by Ms. Deborah Mcharo, learned State Attorney.

Republic side did not object the application therefore Counsel for the applicant briefly prayed for the application to be allowed and adopted the contents of the affidavit.

Bail is a legal mechanism designed to ensure that a person who is subject to the strictures of the law stays out of confinement and his freedom is guaranteed while the process of inquiry into his/her liability in the criminal process is being investigated and determined.

The offence for which the applicant is charged with have cumulative value of Tshs. 68,991,000/-. Thus, since the value of the property involved as outlined in the charge sheet is more than Tshs. 10million and the matter is at District Court of Kisarawe where the trial has not commenced; and in the absence of consent conferring jurisdiction to that court; undoubtedly in line with the governing laws i.e. **Section 29(4)(d)** read together with **section 36(1) of the EOCCA, CAP 200 RE 2002**, the jurisdiction to hear bail application is vested in this court.

**Section 36 (5) and (6) of the same Act** provides for bail conditions where the court decides to admit an accused person to bail. According to para 8 and 9 of the affidavit, it has been deponed that the applicant has reliable sureties and a fixed place of abode at Dar Es Salaam.

That being the position and pursuant to the above provisions of the law; and following the fact that the respondent did not have any objection on granting of bail to the applicant, I hereby proceed to grant bail to the applicant on the following conditions:

- (1) That the each applicant shall deposit in court a sum of Tshs. 35,000,000/- in cash (say Tanzanian shillings Thirty Five Million only) Or in the alternative shall deposit to the custody of the court, a Title Deed of the immovable property to the equivalent amount.
- (2) That the applicant shall be required to provide two reliable sureties who shall be required to execute a bond of TZS. 5,000,000/- each (say Tanzania Shillings Five Million only) and shall ensure the applicant's attendance to court.
- (3) That the applicant shall be duty bound to appear in Court on all dates that shall be scheduled by the Court in Economic Case pending at Kisarawe District Court.

- (4) That, the applicant shall immediately surrender his passport or any travelling document in his name to the Principal Magistrate In Charge at Kisarawe District Court.
- (5) That the applicant shall report to the Principle Magistrate In charge at Kisarawe District Court on each first Monday of the month.
- (6) That the applicant is hereby restricted to move outside the jurisdiction of this Court (High Court) without prior permission of the Magistrate assigned with the case.
- (7) Bail conditions to be ascertained/ verified by the Magistrate assigned with the case within 24 hours after issuance of this order.

Accordingly ordered.



  
**R.A. Ebrahim**

**Judge**

**Dar Es Salaam**

**19.02.2020**