

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO.254 OF 2019

(Arising from Economic Case No. 67 of 2019 filed in the Resident Magistrate Court of Dar Es Salaam, at Kisutu)

1. Geoffrey Kayanza **APPLICANT**

VERSUS

THE REPUBLIC **RESPONDENT**

RULING

Date of Last Order: 17.02.2020

Date of Ruling: 18.02.2020

Ebrahim, J:

The applicant herein has been charged with 13 others with three counts of conspiracy to commit an offence **c/s 384 of the Penal Code, Cap 16 RE 2002**; fraudulent evasion of tax **c/s 84(1) of the Tax Administration Act No. 10 of 2015**; and occasioning loss to a specified authority contrary to **paragraph 10(1) 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 and his co-accused persons conspired to evade tax by failure to pay import tax which caused Tanzania Revenue Authority (TRA) to suffer loss of Tshs. 100,739,873/-.

At the hearing of this application, the applicant appeared in person; and the Republic was represented by Ms. Deborah Mcharo, learned State Attorney.

Republic side did not object the application. The applicant prayed to be availed bail.

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 a value of Tshs. 100,739,873/-. The laws i.e. **Section 29(4)(d)** read together with **section 36(1) of the EOCCA, CAP 200 RE 2002**, calls for the jurisdiction of this court to hear bail application for the like cases.

Section 36 (5) and (6) of the same Act provides for bail conditions where the court decides to admit an accused person to bail.

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 applicant shall deposit in court a sum of Tshs. 3,600,000/- in cash as they are 14 people charged together (say Tanzanian shillings three Million six hundred thousands 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. 1,000,000/- each (say Tanzania Shillings One 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 No. 67/2019 pending at Kisumu Resident Magistrate's Court.

- (4) That, the applicant shall immediately surrender his passport or any travelling document in his name to the Principal Magistrate In Charge at Kisumu Resident Magistrate's Court.
- (5) That the applicant shall report to the Magistrate assigned with the case at Kisumu Resident Magistrate's 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.



A handwritten signature in black ink, appearing to read "R.A. Ebrahim", is written over the seal.

R.A. Ebrahim

Judge

Dar Es Salaam

18.02.2020