

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATIONS NO.255 OF 2019

(Originating from Economic Case No. 1 of 2019 filed at Kigamboni District Court)

1. Shukuru James Mzee

2. Rishard Adam YohanaAPPLICANTS

VERSUS

THE REPUBLICRESPONDENT

RULING

Date of Last Order: 10.02.2020

Date of Ruling: 19.02.2020

Ebrahim, J:

The applicants have lodged the present application praying to be granted bail in respect of the Economic Crime Case No. 01/2019 against them charged at Kigamboni District Court in Dar Es Salaam. The applicants are charged with the two counts of attempt to commit an offence **c/s 381 of the Penal Code Cap 16 R.E. 2002**; and damaging the property which is intended to be used for the purpose of providing necessary services

contrary to paragraphs **20(1), 20(2) (b) and 20(3)(a) and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act, Cap 200 RE 2002.**It is alleged by the Republic that the applicants on 25th April, 2019 at Tungi area within Kigamboni District In Dar Es Salaam Region attempted to steal and in the course of their illegal act damaged transformer no. T. 26840 of 2007 valued at Tshs. 14,605, 581/- the property of TANESCO. The applicants loosened the nuts of the said transformer and the same was intended to be used for transmission and supply of electricity. 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).**The application is supported by the joint affidavit of Shukuru James Mzee and Richard Adam Yohana, the applicants.

At the hearing of this application, the applicants appeared in person; and the respondent preferred the services of Ms. Debora Mcharo, learned State Attorney.

Both applicants when availed chance to state their case prayed to be availed bail with lenient conditions.

Ms. Debora Mcharo, learned State Attorney had no objection to the prayers.

Indeed bail is a 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.

Under **Section 29(4) (d) of the EOCCA, CAP 200 RE 2002**, the jurisdiction to hear bail application is vested in this court. Further **Section 36(1) of the Act**, gives this Court mandate either on its own motion or upon application subject to other provisions of the Act to admit an accused person to bail. **Section 36 (5) and (6) of the same Act** provides for bail conditions where the court decides to admit an accused person to bail.

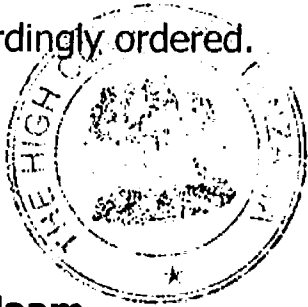
The offence that the applicants are charged with is bailable and both applicants have averred at para 5 and 6 of the affidavit that they are citizens of Tanzania; have fixed abode within Tanzania; and have reliable sureties ready to execute the bond set to secure and ensure their court appearance whenever called by the court.

From the above background and pursuant to the above provisions of the law; I proceed to grant bail on the following conditions;

- (1) That the each applicant shall deposit in court a sum of Tshs. 3,500,000/- in cash (say Tanzanian shillings three Million Five hundred thousand only) Or in the alternative shall deposit to the custody of the court, a certificate of title/leseni ya makazi of the immovable property to the equivalent amount.
- (2) That each applicant shall be required to provide two reliable sureties who shall be required to execute a bond of TZS. 500,000/- each (Tanzania Shillings Five hundred thousand only) and shall ensure the applicant's attendance to court.
- (3) That the applicants shall be duty bound to appear in Court on all dates that shall be scheduled by the Court in Economic Case No. 1/2019 pending at Kigamboni District Court.
- (4) That, the applicants shall immediately surrender their passports or any travelling documents in their names to Principal Resident Magistrate In Charge at Kigamboni District Court.
- (5) That, the applicants shall report to the Principle Resident Magistrate in charge at Kigamboni District Court one very first Monday of the month.

- (6) That, the applicants are 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 the issuance of this order.

Accordingly ordered.



A handwritten signature in black ink, appearing to read "R.A. Ebrahim".

R.A. Ebrahim

Judge

Dar Es Salaam

19.02.2020