

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IRINGA DISTRICT REGISTRY)
AT IRINGA

MISC. ECONOMIC APPLICATION. 52 OF 2019
(Originating from P. I No. 8 of 2018 from Resident Magistrate
Court of Njombe)

NATHAN S/O NGILANGWA	APPLICANT
VERSUS		
THE REPUBLIC	RESPONDENT

RULING

MATOGOLO, J.

The applicant Nathan s/o Ngilangwa is facing an economic crime charge in the Court of Resident Magistrate Njombe. He was jointly charged with one Aman s/o Samwel Kaduma of two counts.

In the 1st count, they are charged with unlawful possession of Government Trophies Contrary to Section 86(1)(2)(c)(ii) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14 of the first schedule and Sections 57(1) and 60(2) of the Economic and Organized Crime Control Act (Cap. 200 R.E. 2002]. It is alleged that on the 2nd day of October, 2018, at Kwivaha Street Njombe Town within the District and Region of Njombe, the two accused persons above mentioned were found in possession of Government Trophies to wit two (2) Leopard Skin valued at Tshs. 15,518,950, the property of the Government of the United Republic of Tanzania without permit from the Director of Wildlife.

In the second count, they are also charged with unlawful possession of Government Trophies contrary to the above mentioned sections. It is also alleged that on the same date and place they were found in possession of Government Trophies that is three (3) python skin valued at Tshs. 2,394,349/= the property of the United Republic of Tanzania without any permit from the Director of Wildlife.

The applicant has filed this application which was made under Section 29(4)(d) of the Economic and Organized Crimes Control Act No. 5 of 2009 and any other enabling provisions of the law. The application is by chamber summons supported by an affidavit taken by the applicant himself.

At the hearing the applicant appeared in person. Mr. Alex Mwita learned State Attorney appeared for the Respondent Republic. The learned State Attorney did not object bail however he prayed to this court in granting bail to the applicant, has to consider the requirements of Section 36(5)(a) of the Economic and Organized Crime Control Act, as the property involved have value exceeding ten million shillings, thus has to deposit in court cash equivalent to half of the value involved and the remain half to be secured by signing a bond.

On his part the applicant prayed to this court to grant him bail for reasons he advanced in his affidavit so that he could be able to assist his sick mother and to attend children left to him.

I have gone through the application documents, the chamber summons and the accompanying affidavit. Accordingly this court is properly moved to consider the applicant's application. The prosecution did not raise any objection. This court is not availed with any other reason warranting denial of bail to the applicant, provided that the offences applicant is facing are bailable ones, I grant the application. The applicant may be released on bail upon fulfilling the following conditions:-

1. The value of the subject matter is Tshs. 15,518,930/= and 2,394,349 for the first and second counts respectively. Thus Tshs. 17, 913,279/= in total. Half of it is Tshs. 8,956,639.5. The applicant is jointly charged with another person who is not an applicant in this application. As the offences were jointly committed by two accused persons, the principles of sharing as was established in the case of **Sylvester Hillu Dawi and Another vs. The Director of Public Prosecutor**, Criminal Appeal No. 250 of 2006 CAT at Dar es Salaam (unreported) has to apply. Thus the amount of Tshs. 8,956,639.5 has to be shared by the two accused persons. The applicant therefore has to deposit in court Tshs. 4,478,319.75/= cash.

Alternatively, the applicant has to deposit in court Title Deed or any other document as evidence of ownership of immovable property of value not less than Tshs. 4,478,319.75/= located within Njombe Region.

The remaining half is to be secured by signing a bond.

Region with recognized place of abode who each will sign a bond in the sum of Tshs. 2,000,000/=.

3. The applicant should not move outside the jurisdiction of the Court of Resident Magistrate Njombe without prior permission sought and granted by the Resident Magistrate incharge Njombe.
4. The applicant shall continue to attend in court on the dates the case is scheduled without fail.
5. The Resident Magistrate incharge of Njombe RM'S Court shall verify all bail documents and sureties before the applicant is released on bail.

Ordered accordingly.




F. N. MATOGOLO

JUDGE

23/03/2020