

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

MISC. ECONOMIC APPLICATION NO. 17 OF 2020
(Originating from District Court of Iringa at Iringa
Economic Case No. 13 of 2020)

ALDO S/O LUPALA **1ST APPLICANT**

CAUGENCE S/O KIMOTA ----- **2nd APPLICANT**

VERSUS

THE REPUBLIC RESPONDENT

RULING

MATOGOLO, J.

This ruling is in respect of an application for bail by two applicants namely Aldo Lupala and Gaudence Kimota who are arraigned in the District Court of Iringa with a total of four counts.

The first two counts are in respect of unlawful possession of Government trophies contrary to Section 86(1) and (2) (b) of the Wildlife Conservation Act, No. 5 of 2009, read together with paragraph 14 of the 1st schedule to and Section 57(1) and 60(2) of the Economic And Organized Crime Control Act, Cap 200 R. E. 2019 as amended by Section 169 and 13(b) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

In the 1st count it is alleged that on 10/06/2020 at Lunda area within Iringa District the two were found in possession of two pieces of Giraffe meat valued at Tshs. 34,509,000/=.

In the second count it is alleged that the same date they were found with Great Kudu meat valued at Tshs. 5,060,000/= the property of the United Republic of Tanzania without any permit or licence.

In the third count the 2nd applicant was found in unlawful possession of fire arm muzzle loader without permit and in the 4th count both applicants were found in unlawful possession of ammunition. And the last count both are charged with the offence of unlawful entry in the National Park.

The applicants have filed this application for this court to grant them bail.

The application is by chamber summons made under Section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act Cap. 200 R. E. 2019 and is supported by a joint affidavit of the applicants.

Ms. Jackline Nungu learned State Attorney who appeared for the Republic did not object bail on the ground that the offences the applicants are facing are bailable.

However she insisted for this court to comply with the requirements of Section 36(4)(e) of the Economic and Organized Crime Control Act Cap. 200 R. E. 2019.

I agree with the learned State Attorney that all offences which the applicants are facing are bailable offences. As there is no any objection to bail was raised, and due to the fact that there is no any fact is availed to

this court warranting denial of bail to the applicants, I grant the application.

The applicants may be released on bail upon fulfilling the following conditions.

1. The value of the subject matter is above ten million shillings the law under Section 36(4) (e) of Cap. 200 requires the applicants to deposit cash in court equivalent to half of that value.

The value of the subject matter in the first count is Tshs. 34,500,000/= and that in the second count is Tshs. 5,060,000/= thus making a total Tshs. 39,560,000/= half of this amount is Tshs. 19,780,000/= But as there are two applicants jointly charged. They have to share that amount under the principle of sharing propounded by the Court of Appeal in the case of ***Siliverster Hilu Dawi and Another vs. The Director of Public Prosecutions, Criminal Appeal No 250 of 2006 at DSM (unreported)***.

Thus each applicant shall deposit in court cash in the sum of Tshs. 9,890,000/=.

ARTERNATIVELY;


Each applicant has to deposit a title deed or any other form of acceptable evidence of ownership of immovable property of value not less than Tshs. 9,890,000/=.

The immovable property must be located within Iringa District and free from any encumbrances.

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

2. Each applicant has to furnish two reliable sureties with recognized place of abode who shall sign a bond in the sum of Tshs. 5,000,000/=. The sureties must possess proper identification.
3. The applicants should not leave outside this region without permission from the Deputy Registrar.
4. The applicant shall continue to attend their case on the date and time scheduled.
5. The Deputy Registrar shall verify all bail documents and sureties before the applicants are released on bail.

Ordered accordingly.


F. N. MATOGOLO
JUDGE
21/10/2020

