

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

**MISC. CRIMINAL APPLICATION NO. 171 OF 2020**

*(Originating from Economic Crime Case No. 74 of 2020, in the Resident Magistrates Court of Dar es salaam at Kisutu, in Eco. Case No. 74 of 2020)*

**JAMES LAZARO MESHAR** ..... **1<sup>ST</sup> APPLICANT**  
**JOSEPH ZAKAYO MOLLREY** ..... **2<sup>ND</sup> APPLICANT**  
**ABDALLAH OMAR MNYAKE** ..... **3<sup>RD</sup> APPLICANT**  
**SAID MWALIMU SAID** ..... **4<sup>TH</sup> APPLICANT**  
**RAJABU JUMA RAMADHANI** ..... **5<sup>TH</sup> APPLICANT**

*VERSUS*

**THE REPUBLIC (DPP)** ..... **RESPONDENT**

**RULING**

*Date of Last Order: 12<sup>th</sup> Oct 2020*

*Date of Ruling: 16<sup>th</sup> Oct 2020.*

**E. E. Kakolaki, J**

This is an application for bail by the applicants preferred under S. 29(4)(d) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2019]

herein referred to as EOCCA. The same is supported by the sworn affidavit of Nehemiah Nkoko advocate for applicants. When served with the chamber summons and its affidavit the respondent filed his counter affidavit.

Before the Resident Magistrates Court of Dar es salaam at Kisutu the applicants are facing charges in three counts. These are firstly; Interfering with Property Used for the Purpose of Necessary Service; Contrary to paragraph 20(1)(2)(b) and 3(f) of the First Schedule to, and sections 57(1) ad 60(2) of EOCCA, which is for all applicants. They are alleged on divers dates between 15/08/2020 and 22/08/2020 at Salender Bridge area within Ilala District in the City and Region of Dar es salaam to have interfered with New Salender Bridge Construction by stealing ten (10) iron plates valued at Tanzania shillings eleven million and seven hundred thousand (Tshs. 11,700,000/=) only. The second count is Stealing; Contrary to section 258910 and 265 of the Penal Code, [Cap. 16 R.E 2019] for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> applicants. The trio are alleged to have committed that offence of stealing on the 15/08/2020 at the same place where they stole properties mentioned in the first count with the same value, the property of Chinese Railway Bridge Engineering Construction Company. And lastly in the third count the 4<sup>th</sup> and 5<sup>th</sup> applicants are charged of Being Found in Possession of Stolen Properties; Contrary to section 312(1)(b) of the Penal Code,[Cap. 16 R.E 2019]. In this offence the two are alleged on the 22/008/2020 along Makamba Street at Gerezani area within Ilala District in the City and Region of Dar es salaam to have been found in possession of ten (10) iron plates valued at Tanzania shillings eleven million and seven hundred thousand (Tshs. 11,700,000/=)

only, the property of Chinese Railway Bridge Engineering Construction Company, which properties were either stolen or unlawfully acquired.

When the matter came for hearing before me on 12/10/2020 all applicants who currently are incarcerated in prison were represented by Mr. Nehemiah Nkoko learned advocate whereas the Republic (Respondent) enjoyed the services of Mr. Salim Msemo, learned State Attorney. Submitting in support of the application Mr. Nkoko, prayed to adopt the affidavit accompanying the chamber summons to form part of his submission and informed the court that applicants are praying for grant of bail as the offence with which they are charged with is bailable. And that they have reliable sureties who are trustworthy and willing to adhere to all bail conditions. He said this court is seized with jurisdiction to entertain the matter as the value of the properties subject of the charge in the subordinate court exceeds ten million which it is Tshs. 11,700,000/= . That being the value of the properties he prayed the court to allow the application and set reasonable and affordable bail conditions to the applicants. Responding to the submission by the applicants' counsel, Mr. Msemo for the respondent from the outset indicated to the court that the respondent was not objecting grant of the application. However, he reminded the court to take into consideration the serious nature of the offence facing the applicants by setting conditions that will guarantee availability of the applicant when needed. He urged the court while setting bail conditions to the applicants to be mindful of the requirements of 36(5)(a)(b)(c) and (d) of the EOCCA and the value of the properties subject of the charge.

I have keenly considered the submission by Mr. Nkoko, the grounds advanced in the affidavit in support of the chamber summons, nature of the offences facing the applicants which are bailable as well as the fact that the application is not contested by the respondent and therefore formed an opinion that the grounds advanced by the applicants are sufficient enough for this court to exercise its jurisdiction to grant the application. It is in evidence further through the affidavit in paragraph 5 that, they have reliable sureties who are trustworthy and willing to adhere to all bail conditions.

With all the above stated grounds brought into consideration, the value of the properties involved in the charge sheet being Tshs. 11,700,000/= cumulatively and the fact that the offence facing them is bailable, this court is satisfied that good grounds have been fronted by the applicant to enable the Court to grant them bail as prayed, which I hereby do. The applicants have to comply with the following conditions:

1. The applicants to deposit in Court cash half of Tanzanian Shillings eleven million and seven hundred thousand (Tshs. 11,700,000/=) which is Tanzanian Shillings five million eight hundred fifty thousand only (Tshs. 5,850,000/= or the property equivalent to half of Tanzanian Shillings eleven million and seven hundred thousand (Tshs. 11,700,000/=) and the rest of the amount be secured by execution of a bond in writing. The principle of sharing to apply.
2. Each applicant to provide two reliable sureties who are to execute a bond of Tshs. 1,000,000/= each, and to satisfy the court that they are either employees of the Government or possess National Identity Card

duly issued by NIDA with permanent residences within Morogoro Region.

3. The applicants should not leave the jurisdiction of the trial court without prior permission from the Resident Magistrate.
4. The applicants to report to the Regional Crime Officer for Ilala Special Police Region according to the schedule prescribed by him.
5. Verification of sureties and bond documents to be executed by the Resident Magistrates Court of Dar es salaam at Kisutu.
6. The applicants to surrender their passport and/or any other travelling documents (if any) to the Resident Magistrates Court of Dar es salaam at Kisutu.

It is so ordered.

DATED at DAR ES SALAAM this 16<sup>th</sup> day of October, 2020



  
E. E. KAKOLAKI

**JUDGE**

16/10/2020

Delivered at Dar es Salaam this 16<sup>th</sup> day of October, 2020 by Hon. C.M. Kisongo, Deputy Registrar of the High Court in the presence of Mr. Nehemiah Mkoko advocate for the Applicants, Mr. Elia Athanas, State Attorney for the respondent and Ms. Monica Msuya, court clerk.

Right of appeal is explained.



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DEPUTY REGISTRAR

**16/10/2020**

DEPUTY REGISTRAR  
HIGH COURT OF TANZANIA  
DAR-ES-SALAAM ZONE