

**IN THE UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**

**(DISTRICT REGISTRY OF MBEYA)**

**AT MBEYA**

**MISC. CRIMINAL APPLICATION NO. 173 OF 2020**

(Arising from Economic Crimes Case No. 15 of 2020 in the District Court of  
Mbarali at Rujewa)

**JOHN MHAGAMA.....APPLICANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

**RULING**

Date of Hearing: 14/12/2020

Date of Ruling : 15/12/2020

**MONGELLA, J.**

The applicant is seeking for bail pending trial of Economic Crimes Case No. 15 of 2020 in Mbarali District Court at Rujewa. He filed this application under section 29 (4) (d) and 36 (1) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2019. In this case he stands charged with three counts on the offence of unlawful possession of Government trophy contrary to section 86 (1) (2) (c) (iii) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14 of the 1<sup>st</sup> Schedule and section



57 (1) and 60 (1) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2019.

On the first count, it is alleged that on 24<sup>th</sup> October 2020 at Ikwambe Mlonga area in Ruaha National Park within Mbarali district in Mbeya region, the applicant was found in unlawful possession of Government trophy to wit, two dried greater Kudu meat worth USD 4,400, equivalent to T.shs. 9,680,000/- being property of the United Republic of Tanzania.

On the second count, it is alleged that on 24<sup>th</sup> October 2020 at Ikwambe Mlonga area in Ruaha National Park within Mbarali district in Mbeya region, the applicant was found in unlawful possession of Government trophy to wit, two dried pigmy antelope meat worth USD 320, equivalent to T.shs. 704,000/-/- being property of the United Republic of Tanzania.

On the third count, it is alleged that on 24<sup>th</sup> October 2020 at Ikwambe Mlonga area in Ruaha National Park within Mbarali district in Mbeya region, the applicant was found in unlawful possession of Government trophy to wit, one dried warthog meat worth USD 450, equivalent to T.shs. 990,000/- being property of the United Republic of Tanzania.

The application was heard orally through virtual court. The applicant was represented by Mr. Salvatory Twamalenga, learned advocate while the respondent was represented by Mr. Baraka Mgaya, learned State Attorney.



After adopting the contents of the applicant's affidavit in support of the application, Mr. Twamalenga argued that the applicant faces offences that are bailable under the law as they make a total value of T.shs. 11,374,000/-. He added that the applicant is a reliable person with reliable sureties who own movable and immovable properties. He added that the applicant, as stated in paragraph 7 of his affidavit, is ready to adhere to all the bail conditions.

On his part, Mr. Mgaya did not oppose the granting of bail to the applicant. He however, urged the Court to consider the requirements set out under the law while granting the bail taking into account that the offences charged exceed 10 Million T.shs.

I have considered the submissions by both counsels. In consideration of the position settled by the Courts in this country, such as, in the case of ***DPP vs. Aneth John Makame, Criminal Appeal no. 127 of 2018; Meshack Lupakisyo Kapange & Another vs. The Republic, Criminal Case no. 8 of 2019; and Athanas Sebastian Kapunda and Others vs. Republic, Misc. Economic Cause no. 7 of 2017***, whereby bail was granted basing on conditions set under section 36 (5) & (6) of the Economic and Organised Crime Control Act, Cap 200 R.E. 2019, I also find no reason to deny the applicant his right to bail. However, as I pointed out, the same has to adhere to conditions set out under the law.



I therefore proceed to grant the bail application upon the following conditions:-

1. The applicant should deposit **T.shs. 5,687,000/-** being half of the total amount of the value stated in the charge with respect to all counts or immovable property of equal value to the amount to be deposited.
2. The applicant should provide two sureties, whereby each surety shall execute a bond of **T.shs. 2,843,500/-**. The sureties must be residents within the jurisdiction of the District Court of Mbarali.
3. Where the applicant opts to deposit immovable properties in compliance with the conditions set herein, it shall suffice for him to deposit title deeds. Where the title deeds are unavailable, sufficient evidence must be provided with respect to the existence and ownership of such title deeds or properties.
4. The applicant must surrender all travel documents, if any, to the Resident Magistrate presiding over his case in the District court of Mbarali. Where the applicant claims not to possess any travel documents, proof to that effect must be obtained from the Immigration Authority.



5. The applicant must not to leave the jurisdiction of this Court Sub Registry Mbeya without written permission of the presiding Resident Magistrate at the District court of Mbarali.
6. The applicant must report in person to the presiding Resident Magistrate at the District court of Mbarali whenever needed to do so.
7. Verification of sureties and bond documents shall be effected by the presiding Resident Magistrate at the District court of Mbarali.

It is so ordered.

Dated at Mbeya on this 15<sup>th</sup> day of December 2020

  
**L. M. MONGELLA**  
**JUDGE**

**Court:** Ruling delivered in Mbeya, through virtual Court, on this 15<sup>th</sup> day of December 2020 in the presence of the applicant and his advocate, Mr. Salvatory Twamalenga and Mr. Baraka Mgaya, learned State Attorney for the respondent

  
**L. M. MONGELLA**  
**JUDGE**

