

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO 52 OF 2020

(Originating from Economic Case No 58 of 2020)

HARDSON ELISANTE @ TARIMO APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

26th November & 4th December, 2020

ROBERT, J:-

The Applicant **Hardson Elisante @ Tarimo** seeks to be admitted on bail pending the final determination of Economic Case No. 58 of 2020 filed against him and others in the Resident Magistrates' Court of Arusha at Arusha. The application is sought by chamber summons under section 148(3) of the Criminal Procedure Act, Cap. 20 R.E.2019 together with section 29(4)(d) and section 36(1)(5)(6) and (7) of the Economic and Organised Crime Control Act, Cap. 200

R.E. 2019. The application is supported by the affidavit sworn by John S. Masangwa, learned counsel for the Applicant.

According to the charge sheet attached to this application, the Applicant and another person are charged in the first count with Unlawful possession of Government Trophy contrary to section 86(1) and (2)(b) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14 of the first schedule to, and sections 57(1) and 60(2) both of the Economic and Organized Crimes Control Act, Cap. 200 R.E. 2019. It is alleged that the Applicant and another person were found in unlawful possession of sixteen (16) pieces of Elephant tusks valued at TZS 138,540,000/= the property of the United Republic of Tanzania.

At the hearing of this application, the Applicant was represented by Mr. John Masangwa, learned counsel while Mr. Ahmed Hatibu, State Attorney, appeared for the Respondent.

Submitting in support of the application, Mr. Masangwa argued that, bail is a constitutional right of the accused person as provided in Article 13 (6) (b) of the Constitution of the United Republic of Tanzania as amended from time to time. He maintained that while a person is waiting trial he has a right and entitled to bail as a presumption of innocence until the contrary is proved. He stated that the Applicant in this application has never been convicted nor

charged with any offence and he is ready to abide with all conditions of bail set by this Court. He stated further that the Applicant has reliable sureties who are ready to fulfill terms and conditions of bail as directed by this court.

In response, Mr. Ahmed Hatibu learned State Attorney did not object this application. He implored the court to set bail conditions considering the charge filed against the applicant and the requirements of the law under Section 36 (5) of the **Economic and Organized Crime Control Act** cap 200 R.E 2019.


I find no reason not to agree with the submissions made by both parties as the offence which the Applicant is facing is a bailable and there is no any fact which is availed to this court warranting denial bail to the applicant. I therefore grant this application.

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

1. Applicant to deposit cash or Title deed of a property or property approved to have the value equivalent to half the amount or value of the money or property for which the applicant is charged, that is 69,270,000/= divided equally between the two Applicants. The applicant will therefore deposit cash or title deed or property approved to have the value equivalent to TZS 34,635,000/=.

2. The Applicant to produce two reliable sureties each of whom has to execute a bond of Tshs. 17,317,500/=.
3. The applicant to appear before the Resident Magistrates' Court of Arusha at Arusha whenever Economic Case No. 58 of 2020 is scheduled by the court to proceed.
4. The Applicant to surrender his passport and other travel documents, if any, to this court.
5. Verification and scrutiny of the bond documents for sureties and Applicant shall be executed by the Deputy Registrar of the Court.

It is so ordered.


K.N. ROBERT
JUDGE
4/12/2020

S/H