

**IN THE HIGH COURT OF TANZANIA
(MTWARA DISTRICT REGISTRY)**

AT MTWARA

MISC. CRIMINAL APPLICATION NO. 2 OF 2020

[Original Masasi District Court Economic Crimes Case No. 4 of 2020]

MUSSA YASIBU MROPE.....1ST APPLICANT
MARY FIDEL MILANZI.....2ND APPLICANT
FAIDHA IGNAS ANTHONY.....3RD APPLICANT
DEVOTHA RAPHAEL NJUNJU.....4TH APPLICANT
RASHID SELEMANI MBWAGO.....5TH APPLICANT
PRISCA ISSA MJUNGU.....6TH APPLICANT
YUSTA XAVERY JOHN.....7TH APPLICANT

VERSUS

THE REPUBLIC ----- RESPONDENT

12 & 13 March, 2020

RULING

DYANSOBERA, J.:

The applicants herein are charged before the District Court of Masasi at Masasi in Economic Crimes Case No. 4 of 2020 with divers counts, namely, use of documents intended to mislead the principal,

forgery, obtaining money by false pretenses and occasioning loss to a specified authority.

Although it is a bailable offence, but owing to the fact that the District Court lacks jurisdiction to grant bail, the applicants have, by way of chamber summons filed this application before this court seeking to be admitted to bail. The application has been made under sections 29 (4) (d) and sections 36 (1) of the Organized Crime Control Act [Cap. 200 R.E.2002] and sections 148 and 392 of the Criminal Procedure Act [Cap. 20R.E.2002] as amended by the Written Laws (Miscellaneous Amendments) Act No. 3 of 2011. An affidavit duly sworn by Mr. Alex Peter Msalenge has been filed in support of the application. The application has been filed under a certificate of urgency. The relevant paragraphs in support of the application are paragraphs 4, 5, 6, 7 and 8 of the said affidavit.

The application has not been resisted by the respondent Republic who has opted not to file a counter affidavit. At the hearing of this application, the applicants were represented by Mr. Issa Chiputula, learned advocate whereas Mr. Kauli George Makasi, learned senior state attorney stands for the respondent.

I have considered the affidavit filed in support of the application, the submissions by both the learned senior state attorney and counsel for the applicants.

I have also taken into account the following pertinent factors. First, bail is the accused's constitutional and legal rights. Second, the offence the applicants are facing is bailable. Third, the applicants have, in the affidavit undertaken to abide by the bail conditions and secure reliable sureties and fourth, there is no suggestion that the applicants are flight risk and it has been demonstrated that they are ready to answer to their bail and take their trial.

Since this application for bail has not been resisted by the respondent in the sense that the averments in the affidavit filed on behalf of the applicants have not been controverted, I grant the application and order that the applicants be admitted to bail upon fulfilling the following conditions:-

1. Each applicant/accused shall execute a bail bond of Tshs. 15,000,000/= with two sureties each in the like sum.
2. There should be evidence on part of the sureties to be in possession of immovable property situated in Masasi District.

3. The sureties to be reliable and approved by the Deputy Registrar of the High Court at Mtwara Registry.
4. The applicants/accused to surrender their passports or any travel documents, if any, to the OCD, Masasi District.
5. The applicants/accused shall not travel outside the local jurisdiction of the District Court without the permission of the Resident Magistrate in charge of Masasi District.
6. The applicants/accused shall appear before the District Court of Masasi on the dates and times as shall be so directed by the said District Court.
7. The Deputy Registrar or the District Court at Masasi, as the case may be, shall ensure that the bail terms and conditions are maintained pending the hearing and determination of the case against the applicants/accused.

It is so ordered.



W. P. Dyansobera

JUDGE

13.3.2020

Dated and delivered at Mtwara this 13th day of March, 2020 in the presence of Mr. Kauli George Makasi, learned senior state attorney for the respondent and Mr. Issa Chiputula, learned counsel for the applicants. All seven applicants are also present.



A handwritten signature in black ink, appearing to read "W. P. Dyansobera", is written over the printed name.

W. P. Dyansobera

JUDGE