

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

MISC. CRIMINAL APPLICATION No. 146 OF 2020

*(Arising from the Economic Case No. 44 of 2020 in the Resident Magistrate
Court of Morogoro at Morogoro)*

NURU MOHAMED HASSAN.....APPLICANT

Versus

REPUBLIC.....RESPONDENT

04th – 16th November, 2020

J. A. DE - MELLO J;

The Applicant has been arraigned before the **Resident Magistrates Court of Morogoro at Morogoro**, in **Economic Case No. 44 of 2020**. According to the charge sheet attached in the Chamber Summons, together with the Affidavit, the Applicant is charged with one count, to wit;

- 1. Unlawful possession of Government trophies contrary to section 86(1) (2) (b) and (3) of the Wildlife Conservation Act, No.5 of 2009, Cap 283 read together with Paragraph 14 of the First Schedule to and section 57(1) and 60(2) of the Economic and Organized Crime Control act, Cap 200, R.E 2019.**

The Court is moved under **sections 29 (4) (d) and, 36 (1) (5) (d) of the Economic and Organized Crime Control Act, Cap. 200, R.E 2019.**

Oral submissions were preferred by parties in which, Counsel Francis Munuo the Applicant prayed to adopt the contents of Affidavit sworn by Advocate **Saul Sakalumba**, reminding the Court of the Constitutional right to bail as stipulated under **Article 13 (6) (b)** and, **15** of the **Constitution of United Republic of Tanzania**, as amended from time to time, but reiterated what the case of Daudi **Pete's Case [1993] TLR 22**. The offence charged is bailable with sureties available as he complies with the conditions set by Court, he concluded as he prayed for grant.

Responding, **State Attorney, Elizabeth Mkude**, pointed out that, the Applicant is faced with an economic offence for contravening section **86 (1) (2) (b)** and, **(3)** of the **Wildlife Conservation Act (supra)** whose value is **TShs. 34,635,000/=**, bestowing the Court with the mandate to hear and, determine the application. Counsel submitted not to oppose bail so long as it judiciously exercises its discretion as provided for under **section 36 (5)** of the **Economic and Organized Crime Control Act, Cap. 200, R.E 2019**.

Rejoining, Counsel for the Applicant submitted the willingness and, readiness of his client to comply and, respect the conditions set under **section 36 (5)** of the Act (supra). It all arises from the cardinal principle of **innocent until proven guilty**, he laments.

Several cases have subscribed to the said principle but namely here is this one of **Hassan Othman Hassan @Hasanoo vs. Republic, Criminal Appeal No. 15 of 2013**, holding that; "...guided by the principle that an accused person is presumed innocent until proven guilty and the purpose of granting bail to an accused person is to let him enjoy his

freedom as long as he does not default appearances in court when so required, until his rights are so determined in the criminal case...".

Cognizant of this, Counsel for the Republic does not oppose the application so long as conditions stipulated under section **36 (5)** of the **Economic and Organized Crime Control Act, Cap. 200, R.E 2019** and other conditions set out by this Court.

The section reads; However, according to the charge sheet attached together with Chamber Summons and, Affidavit, the value stated from the particular of the offence is **USD\$ 15000** equivalent to **TShs. 34,635,000/=**, whose translation by the virtue of **section 36(5)** (supra) the Applicant has to deposit the sum of **TShs. 17,317,500/=**.

I therefore grant bail following the fulfilment of the following conditions;

- I. Deposit cash to the tune of TShs. 17,317,500/= which is half the actual value and or; money. alternatively submit Tittle Deed (s) for immovable property whose value is equivalent and not less the half value of the actual value duly certified by the professional valuer.**
- II. Submit one surety, a resident of Morogoro to execute promissory bond of the same amount of TShs. 17,317,500/=**
- III. Surrender to Court legal travel document, if any.**

Let the same be placed before the Deputy Registrar of the High Court, Dar Es Salaam Zone once the said conditions are fulfilled for release.

It is so ordered.




J. A. DE- MELLO

JUDGE

16th November, 2020