

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

MISCELLANEOUS CRIMINAL APPLICATION NO.238 OF 2019

*(Originating from Criminal Case No. 73 of 2018, at Kisutu Resident
Magistrate's Court)*

SHAFII NAMPEMBE APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of Last Order: 9th Mar 2020

Date of Ruling: 9th Mar 2020.

E. E. Kakolaki, J

This is an application for bail by the applicant preferred under S. 29(4) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2002] as amended by Written Laws (Misc. Amendment) Act No. 3 of 2016 and any other enabling law. It is supported by the affidavit sworn by the applicant one SHAFII NAMPEMBE.

The applicant was arraigned before the Resident Magistrate's Court of Dar es Salaam at Kisutu, facing charges on two counts namely:

1st Count; Damaging property used for the purpose of providing necessary services Contrary to paragraph 20(1), (2)(b) and 3(a) of the Economic and organized crime control Act [Cap. 200 R.E. 2002] as amended. The second count is on Occasioning Loss to the Specified Authority contrary to paragraph 10(1) of the first schedule to and Section 57(1) and 60(2) of the Economic and organized Crime Control Act, [Cap. 200 R.E. 2002] as amended.

It is alleged that on 16/02/2018 at Mbezi area within Kinondoni District in Dar es Salaam Region, the applicant together with one Rogers Festo jointly and together did cut telecommunication cables the property of Tanzania Telecommunications Company Ltd (TTCL), the property used for providing necessary service. In the second count it is alleged that by willful act of cutting telecommunication cables both accused caused Tanzania Telecommunication Company Limited (TTCL) to suffer pecuniary loss of Tshs. 25,002,875.18.

When the matter came for hearing before me on 09/03/2020 the applicant appeared unrepresented and argued the application on his own whereas the Republic (Respondent) was represented by Mr. **ADOLF KISIMA** learned State Attorney.

The Applicant arguing his application submitted that the offences he is facing in the subordinate court which court has no powers to grant him bail areailable. That he has reliable sureties and he is ready to meet the conditions provided by the court should his application be granted. He therefore prayed this court to grant the application as prayed in the chamber summons.

When called to respond to the submission by the applicant Mr. KISIMA learned State Attorney for the respondent informed the court that

having gone through the applicant's affidavit and its annexures he is satisfied that the offences with which the accused is charged with are bailable. And for that matter the respondent does not object to the application. He only prayed the court when considering the bail conditions to be guided by the provision of Section 36(5) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2002] as amended.

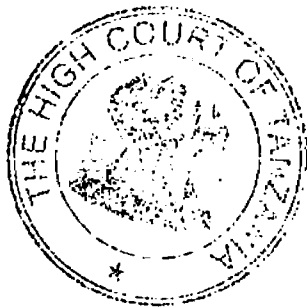
Having perused the application and having heard both parties it is evident to the court that the offences facing the accused are bail able. Given the fact that the respondent is also not objecting to the applicant, this court is hereby granting the application as prayed. The applicant has to comply with the following conditions:

1. That applicant should deposit cash Tshs. 12,600,000/= (considering the value of the property and the principle of sharing) or immovable property of equal value to the amount ordered to be deposited.
2. The applicant to provide two reliable sureties who are to execute a bond of Tshs. 7,000,000/= each, and to satisfy that sureties have to be either employees of the Government or should possess on National Identity Card issued by NIDA and are residences of Dar es salaam Region.
3. The applicant should not leave the jurisdiction of the court without permission from the Resident Magistrate Court at Kisutu, Dar es Salaam.
4. The applicant to report to the Regional Crimes Officer for Dar es Salaam Region according to the schedule prescribed by him.

5. Verification of sureties and bond document should be executed by the Resident Magistrate Court at Kisutu, Dar es Salaam.
6. The applicant to surrender their passport and any other travelling documents to the Resident Magistrate Court at Kisutu Dar es Salaam.

It is so ordered.

DATED at DAR ES SALAAM this 9th day of March, 2020.



A handwritten signature in black ink, appearing to read "E.E. Kakolaki".

E.E. KAKOLAKI

JUDGE

09/03/2020

Ruling delivered today 9th day of March, 2020 in the presence of the applicant and Mr. KISIMA, State Attorney for the Respondent.



A handwritten signature in black ink, appearing to read "E.E. Kakolaki".

E.E. KAKOLAKI

JUDGE

09/03/2020