

**IN THE HIGH COURT OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

MISC CRIMINAL APPLICATION NO. 19 OF 2020

In the matter of an Application for

BAIL PENDING TRIAL

And

In the matter of Economic Case No. 80 of 2019

In the District Court Manyoni District at Manyoni

1. JUMANNE CHARLES @ MWILINGWA	}APPLICANTS
2. GERVAS PAULI @ MABUKU		

VERSUS

THE REPUBLICRESPONDENT

22/4/2020 & 7/5/2020

RULING

MASAJU, J

The Applicants, Jumanne Charles @ Mwilingwa and Gervas Pauli @ Mabuku, together and jointly along with same other 13 persons have been indicted for economic offences of Leading Organised Crime and Unlawful Possession of Weapons in a Game Reserve and several other non-economic

offences before the District Court of Manyoni, hence this Chamber Summons Application for bail pending trial and determination of the Economic Cause No. 80 of 2019 against them. The Application is being supported by the Affidavits severally sworn by the Applicants themselves. The said affidavits give the background and the reasons for eligibility for admission to bail in paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12. Both Applicants severally in their said Affidavits depone in paragraphs 5, 6, 8, 9 and 10 that they have been charged with bailable offence hence entitled to be admitted to bail. That they will meet bail conditions in case their application is granted. That they have reliable sureties who will be able to meet bail conditions, directives or requirements which will be imposed by the Court and that they will not interfere with the ongoing investigation in whatever manner.

The Respondent Republic contests the Application, hence her filing in the Court Counter Affidavit sworn by Ms. Phoibe Clifford Magili, the learned State Attorney taking issues with the Applicants' Affidavits. The Respondent Republic, in paragraphs 1, 2 and 3 of her Counter Affidavit, takes note of the Applicants averments in paragraphs 1, 2 and 3 of the Affidavits but in paragraphs 4, 5 and 6 of the Counter Affidavit, the Respondent Republic takes issues with the Applicants' averments in paragraphs 6, 7, 8, 9, 10, 11 & 12 of the Affidavits. The Respondent Republic depone in paragraph 4 of the counter affidavit that there is strong case against the Applicants and that the evidence against them is watertight. In paragraphs 5 and 6 of the counter affidavit the Respondent Republic, *inter alia*, depone that due to the ongoing investigation the

Applicants are likely to interfere with the investigation if they are granted bail. That, Applicants are likely to commit other offences if they are admitted to bail.

When the Application was heard in the Court on the 22nd day of April, 2020 Mr. Zephania Manyesha, the learned counsel appeared for the Applicants whilst Ms. Phoibe Magili, the learned State Attorney, appeared for the Respondent Republic. Both parties adopted their Affidavit and counter affidavit to form parts of their submissions in support of, and against the Application in the Court as they argued the Application alongside their Affidavit and counter affidavit accordingly. The Applicant prayed the Court to grant the Application but the Respondent Republic prayed the Court to dismiss the Application. That is what is the parties submitted in the Court.

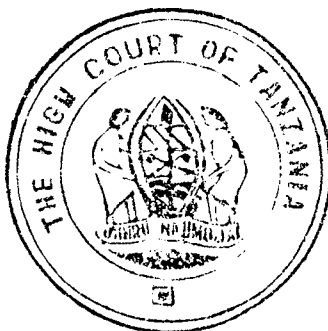
When all is said and done, the Court is of the considered position and reasoning that the economic offences which the Applicants have been charged with are bailable under sections 29 (4) (d) and 36 (1) of the Economic and Organised Crime Control Act, [Cap 200]. The reasons given by the respondent against the Application do not form part of the reasons and circumstances given under section 36 (4) of the Economic and Organised Crime Control Act, [Cap 200] for withholding bail in other wise bailable offences.

That said, the Application for bail pending trial and determination of the economic crime case against the Applicants is hereby granted accordingly under sections 29 (4) (d) and 36 (1) of the Economic and Organised Crime Control Act, [Cap 200] read together with section 148 (1) of the Criminal Procedure Act, [Cap 20]. The Applicants shall be admitted to bail on the following conditions and terms, thus;

1. That, each Applicant shall have two reliable sureties, citizens of the United Republic, residents of the local jurisdiction of the Court who shall each execute a bond of TZ 10,000,000/=.
2. That, the Applicants' reliable sureties, if any, and their identification documents shall be vetted and approved by the Deputy Registrar, High Court of the United Republic of Tanzania, Dodoma Registry (The Deputy Registrar).
3. That, the Applicants shall surrender their passports and other travel documents, if any, to Dodoma Regional Central Police Station for safe custody pending trial and determination of criminal case against them.
4. The Applicants shall not travel outside the local jurisdiction of the Court without prior permission by the Deputy Registrar.

5. That the Applicants shall appear before the District Court of Manyoni at Manyoni on such dates and times as shall be so scheduled by the said District Court.
6. That, the Applicants shall refrain and abstain from visiting National Parks, Game Reserves and Game controlled Areas, if any, within the local jurisdiction of the Court pending the trial and determination of the economic crime case against them.
7. That, the Deputy Registrar or the District Court of Manyoni, as the case may be, shall ensure that the bail conditions and terms hereof are complied with and maintained accordingly pending the timely trial and determination of the economic crime case against the Applicants
8. That, the Deputy registrar shall ensure that all prerequisite bail conditions and terms hereof are met accordingly prior to releasing the Applicants on bail.

It is hereby so ruled and ordered by the Court this 7th day of May, 2020.



GEORGE M. MASAJU

JUDGE

7/5/2020