

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF MUSOMA**

**AT MUSOMA**

**MISCELLANEOUS CRIMINAL APPLICATION NO. 4 OF 2021**

**THE REPUBLIC**

**VERSUS**

**SIJAONA DURUMA .....1<sup>ST</sup> APPLICANT**

**KUBOJA KUBOJA @ KAMOGA .....2<sup>ND</sup> APPLICANT**

**AMANI JULIUS .....3<sup>RD</sup> APPLICANT**

**RULING**

*11<sup>th</sup> February, 2021*

***Kahyoza, J.***

This is an opposed application for bail. It is an opposed in the scene that the Respondent the Republic were served with an application and opted not to file a counter affidavit. The application for bail was filed under Articles 13(6) (b) and of the Constitution of the United Republic of Tanzania of 1977 (as amended from time to time; Section 148(3) and 148(5) (e) of the Criminal Procedure Act [Cap. 20 R.E 2019] (the **CPA**); Section 29(4) (d) of the **Economic and Organised Crimes Control Act**, (The EOCCA) [Cap. 20 R. E. 2019]

The background of this application is that the applicants were arraigned before the District Court with, among other offences, the offence

of leading organised crime where the value of the property involved was Tzs. 89,190,000/=.

The law limits the power of the District Court to grant bail to the accused. The District Court can grant bail where the value of the property involved is below Tzs. 10,000,000/=. Based on that position of the law the applicant applied to this Court.

I will commence with the issue whether this application is properly before this Court. The record shows that the applicants are charged with an economic offence. Bail, in economic offences, is governed by S. 29(4) of the EOCCA. This is the relevant section. The CAT has held in cases without number that section is relevant section 29(4) of the EOCCA when it comes the issue of bail in Economic case. See the decision of the Court of Appeal in **Mwita Joseph Ikohi and 2 others v. R.** Criminal Appeal No.60/ 2018.

In the present case, the applicant instituted the application under Articles 6(b) 13 and 15 of the Constitution and S. 148(5) of the **CPA**. The Articles of the Constitution and the provisions of S. 148(5) the **CPA** were not necessary as observed by the learned State Attorney. They are redundant. The fact that the applicants included in their application redundant provisions of the Constitution and Section 148(5) of the **CPA** does not make their application incompetent. With due respect, I beg to differ with the observation of the learned State Attorney that the application is incompetent. It would have been so, if the applicants had not included S. 29(4) of the EOCCA.

In the absence of strong argument to oppose the application and bail being a constitution right of the accused person. I grant bail to the accused persons on the following conditions:-

1. The accused persons should jointly deposit cash or property equivalent to half the value of the property involved in charge.
2. They must surrender travel if any;
3. They should not get involved with fishing activities or products.
4. They should produce two sureties each with immovable property. The sureties shall enter bail bond of Tzs 15,000,000/= each.

The Deputy Registrar shall assess the sureties.



**J. R. Kahyoza**

**JUDGE**

**11/2/2021**

**Court:** Ruling delivered in the absence of the applicant with leave, and the presence of Mr. Mapunda Advocate for applicant and Mr. Nchanilla S/A.



**J. R. Kahyoza**

**JUDGE**

**11/2/2021**

