

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
MBEYA DISTRICT REGISTRY
AT MBEYA

MISC. CRIMINAL APPLICATION NO. 7 OF 2021

*(Original Economic Case No. 1 of 2021 originated from the District Court of
Ileje at Ileje, Songwe)*

- 1. ORISCA D/O BISSA 1ST APPLICANT**
2. BARAKA S/O MANFRED KOMBA 2ND APPLICANT
3. OWEN S/O TUSUMEGE @ PANJA 3RD APPLICANT
4. STERLING MOGEGE @ NGABO 4TH APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of Hearing: 23.02.2021

Date of Ruling: 23.02.2021

DR. A. J. MAMBI, J.

The applicants (**ORISCA D/O BISSA, BARAKA S/O MANFRED KOMBA, OWEN S/O TUSUMEGE @ PANJA and STERLING MOGEGE @ NGABO**) through their chamber summons filed this application for bail to the applicants pending trial of the main case. Earlier the applicants filed their application on

28/11/2021. The matter was scheduled for hearing on 8/2/2021 but it was adjourned until 23/2/2021. During hearing, the applicants were represented by Isack Chingilile while the respondent was represented by Mr. Baraka, the learned State Attorney. The applicants' Counsel prayed to adopt in their affidavit. He submitted that the applicants have been charged with an offence of economic with 122 counts but he states that since such offence is bailable that is why they decided to file for an application for bail.

The Republic, through the learned State Attorney Mr. Baraka submitted that the Republic has no objection so long as the applicant is given conditions if the court decides to grant him bail. I have considerably gone through the application supported by affidavit and submissions from both parties. It is clear from the records that the applicants are seeking bail pending determination of their main case. I have also perused the facts for charge in which the applicant stands charged. Before this court decides to determine this application there are certain issues or questions that need to be addressed and answered. In my considered view, the question before this court is that; is the offence under which the applicant is seeking bail bailable? If yes, does the circumstance of the case warrants this court to grant the bail or not? If the answer is in affirmative, are there any conditions that the applicants needs to meet before such bail is granted? If the answer is in negative

what are reasons and grounds that could make this court to refuse this application?

The records show that the offences and 122 counts against which the applicants stand charged are not under the list of nonbailable offences under the law. In other words, the offence originating from an economic case is bailable. It is indisputable fact that the main purpose of granting bail to the accused has always been to let her be free for a while pending his trial as long as his guilt has not yet been established beyond reasonable doubts. However, this purpose is subject to a number of limitations before the court grants such bail. I have considerably gone through the records and facts from prosecution and finds that the circumstance of the case warrants this court to grant bail. I am of considered view that the applicants deserves bail at the court. It is prudent the accused be immediately granted bail by this court to avoid unnecessary delay of justice.

From the above reason, the court grants bail to the applicants subject to the following conditions:-

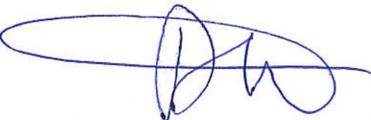
The applicants to have two reliable sureties residing within Songwe or Mbeya Region. All sureties to present introduction letters from their respective Kitongoji or Mtaa leaders to the High Court Registrar.

1. The sureties shall sign bond worth 5,000,000/= to the High Court of Mbeya
2. Each applicants shall deposit **32, 012, 407.5/=** to the High Court of Mbeya or immovable properties equivalent to this


amount. This amount is half amount derived from the half amount total value that (256,099,260/=). If the applicants has no such money, he is at liberty to present the document indicating ownership of an immovable property valued at the equivalent to **(32, 012, 407.5/=**

3. Applicant to report to the office of Nearest Police Station or post within the District of his residence once monthly from the date of this order.
4. Each applicant to surrender his travelling documents or passports to the nearest District Court Magistrate in Charge in Songwe or Mbeya Region
5. Each applicant shall seek permission from the Registrar of the High Court of Mbeya or the District Magistrate In-charge for Mbarali Court if he needs to travel outside Songwe or Mbeya Region.




DR. A.J. MAMBI
JUDGE
23.02. 2021

Ruling delivered in Chambers this 23th day of February, 2021
in presence of both parties.


DR. A.J. MAMBI
JUDGE
23.02. 2021

Right of Appeal explained.



DR. A.J. MAMBI
JUDGE
23.02. 2021