

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF BUKOBA)
AT BUKOBA**

Misc. CRIMINAL ECONOMIC APPLICATION No. 113 of 2020

(Arising from Economic Case No. 23 of 2020 of the Biharamulo District Court at Biharamulo)

KAREGA RONGINO ----- APPLICANT

Versus

THE REPUBLIC ----- RESPONDENT

RULING

06.04.2021 & 09.04.2021

Mtulya, J.:

Mr. Karega Rongino (the Applicant) is seeking bail pending trial in **Economic Crimes Case No. 23 of 2020** registered at **Biharamulo District Court** based in Biharamulo (the economic case). The Applicant is alleged to have committed two (2) offences, viz: first, possession of firearm commonly known as Gobore with sixteen (16) rounds without valid licence contrary to section 4 (1) and 34 (1) of the **Firearms and Ammunition Act** [Cap. 223 R.E 2019]; and second, possession of one (1) Giraffe Tail without valid licence contrary to section 86 (1) & 2 (c) (ii) of the **Wildlife Conservation Act** [Cap. 283 R. E. 2002] as amended in 2016.

The offences are also prosecuted under section 57 (1) and First Schedule to the **Economic and Organised Crimes Control Act** [Cap. 200 R.E. 2019] (the Act). The value of the amount of money involved in the first offence was not stated in the Charge Sheet

whereas for the second offence it was displayed Tanzanian Shillings Thirty Four Million Seven Eighty Five Thousand Only (34, 785, 000/=Tshs.). On 6th April 2021, when the Application was scheduled for hearing, the Applicant hired the legal services of Mr. Danstan Mujaki to argue the Application for him whereas the Republic marshalled Mr. Grey Uhagile, learned State Attorney.

In brief submissions and conversations registered by learned brothers, Mr. Dastan Mujaki and Mr. Grey Uhagile, this court noted that both parties are in agreement that bail pending economic cases is constitutional right that may be granted according to sections 29 (4) (d) and 36 (5) & (6) of the Act and precedent of this court in **Salum Abeid Mbaya & Ten Others v. Republic**, Consolidate Misc. Economic Applications Nos. 68 & 69 of 2019.

However, Mr. Mujaki prayed condition number 4 in page 19 of the precedent be adjusted with regard to surety who is a Government employee and resident of Kagera Region. According to Mr. Mujaki, the Applicant is pastoralist and nomadic in nature hence his relatives are scattered in different regions within the United Republic of Tanzania. This prayer was not protested by learned State Attorney Mr. Uhagile who submitted that the main concern with sureties is their availability when the Applicant faults bail conditions. In his opinion, since science is now greased in the public

service and easy to access Government employee anywhere within the United Republic of Tanzania, condition number 4 in page 19 of the decision in **Salum Abeid Mbaya & Ten Others v. Republic** (supra) may be adjusted to cover the state of Tanzania.

I perused the provisions of the law in section 29 (4) (d) of the Act and found out that this court is empowered to entertain bail applications pending determination of economic cases registered for determination in subordinate courts of Resident Magistrates and District Courts, provided the value of property involved in the offence charged is Tanzanian Shillings Ten Million or more. The present application, involves the properties valued more Ten Million hence within the mandate of this court. On the other hand, section 36 (5) of the Act provides for mandatory bail conditions whereas section 36 (5) of the Act regulates discretionary mandate of this court. It is fortunate that the cited precedent in **Salum Abeid Mbaya & Ten Others v. Republic** (supra) has interpreted the provisions of the law hence this court will not entertain interpolations for the sake of certainty.

However, the decision in **Salum Abeid Mbaya & Ten Others v. Republic** (supra) was rendered down by this court and alteration in conditions, especially those in discretionary powers of this court, may be inserted for the interest of justice or when it is right to do so

(see: **Director of Public Prosecutions v. Aneth John Makame**, Criminal Appeal No. 127 of 2018 and **Edward D. Kambuga & Another v. Republic** [1990] TLR 84]). In the present Application, Mr. Mujaki submitted that the Applicant is a nomad pastoralist who according to the nature of his activities is moving from one area to another in search of green pastures and his relatives are spread all over within Tanzania. To my opinion, this is a special circumstance which invites special conditions in favour of the Applicant.

Having visited the said provisions of the law and practice of this court in applications like the present one, and considering the special circumstances of the Applicant in this Application, I am convinced to grant the Application under the conditions provided in sections 36 (5) (a)–(d) and (6) (a)–(c) of the Act and practice in **Salum Abeid Mbaya & Ten Others v. Republic** (supra), save for geographical location of sureties. Therefore, I hereby admit the Applicant to bail and he will be released upon fulfilling the following listed conditions. The Applicant shall:

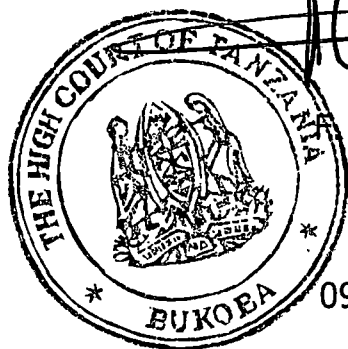
1. Surrender his passport or any other travelling document, if any, to the Regional Crimes Officer, Kagera Region;

2. Report to the District Resident Magistrate In Charge of Biharamulo District Court at Biharamulo once in every last Monday of a month and sign a specific register, if need be;
3. Not to travel out of Kagera Region without prior written leave of the District Resident Magistrate In Charge of Biharamulo District Court at Biharamulo;
4. Have two sureties, and one must be employee of the government, local government, government agency, or any other organization recognized under the law and must be resident within the United Republic of Tanzania and both sureties must enter their presence before Deputy Registrar of this court on the day of Applicant's release;
5. Submit to the Deputy Registrar of this court letters and certified copies of identity cards from the two sureties' employers as a proof of their employment;
6. Submit to the Deputy Registrar of this court introduction letters of sureties from their respective street or village chairman;

7. Enter appearance in court on every date when the case is scheduled for mention, hearing or any other order or direction of the court;
8. Applicant's sureties shall undertake to make sure that the Applicant is available and enter attendance in court whenever required;
9. The Applicant shall deposit cash in sum Tanzanian Shillings Eighteen Million (18,000,000/=) or in alternative deposit immovable property equivalent to Tanzanian Shillings Eighteen Million (18,000,000/=); In case the Applicant decides to deposit immovable property, he shall deposit title deed supported by Valuation Report from the Government Valuer; and each of the Applicant's sureties must sign a bond of sum of Tanzanian Shillings Nine Million (9,000,000/=) as a security for appearance of the Applicant at the District Court of Biharamulo at Biharamulo; and
10. The above ordered bail conditions shall be supervised and sureties certified by the Deputy Registrar of this court.

This Application is granted without any order as to the costs.
Each party shall bear its own costs.

It is accordingly ordered.



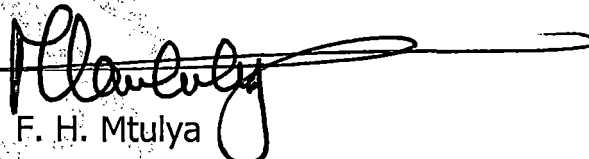

H. Mtulya

Judge

09.04.2021

This Ruling was delivered in Chambers under the seal of this court in the presence of the learned State Attorney, Mr. Joseph Mwakasege and in the presence of the Applicant, Mr. Karega Rongino and his learned counsel Mr. Dastan Mujaki.




F. H. Mtulya

Judge

09.04.2021