

IN THE HIGH COURT OF TANZANIA

(DODOMA DISTRICT REGISTRY)

AT DODOMA

MISC. CRIMINAL APPLICATION NO. 103 OF 2020

(Originating from Economic Case No. 16 of 2020

Dodoma District Court at Dodoma)

BAKARI JUMA @ MUYA.....APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

DATE OF RULING : 14/4/2021

HON. L. MANSOOR, J.

The applicant is charged for unlawful possession of Government trophy. It is alleged by the prosecution that on 26th February, 2017 the applicant was found in possession of one Elephant Tusk valued at Tshs. 32,175,000. He was charged under Wildlife Conservation Act and section 5 7 and 60 of the Economic and Organised Crimes Control Act. He has been in remand custody since the day he was arrested i.e on 26th February, 2017,


and until today, the trial of his case has not begun, claiming that investigation is not complete. The offence is bailable, and I see no reasons from the affidavit of the Respondent or from the submission of the State Attorney which would convince the court not to grant the applicant to bail. The learned public prosecutor mainly apprehends that investigation shall be tempered with if bail will be granted, but she did not give the details or proof of how the accused will interfere or temper with investigation which have not been completed since 2017, February, now almost 5 years have passed. This court also is not concerned about the question of punishment that might be awarded to the applicant if convicted. This court must only see whether the applicant is entitled for bail. It is trite that the liberty of a person cannot be curtailed or confined even before his indictment in the case. The applicant is deemed innocent unless convicted, and he is entitled to be admitted to bail. The object of bail is to serve his appearance at his trial by reasonable amount of bail. Obviously, punishment begins after conviction, and everyman is deemed innocent until duly tried and found guilty. I find that the Applicant has been in remand custody without trial for a long time since February, 2017 for bailable offence. There is no threat of

either tempering with investigation or attempt to jump bail shown or proved by the prosecution. Therefore the applicant is admitted to bail, subject to the following conditions:

1. He shall deposit in court cash amounting to Tshs. 16,087,500 which is half of the value of the trophies in the charge sheet. The rest shall be secured by executing a bond.
2. He shall have two reliable sureties to be approved by the Deputy Registrar of the High Court.
3. He shall surrender his passports or any other travel documents to the Central Police, Dodoma.
4. He shall not move outside Dodoma Region until his case is finalized.
5. He shall attend to his case without fail.

It is so ordered.




L. MANSOOR
JUDGE
14/4/2021