

IN THE HIGH COURT OF TANZANIA

AT SONGEA

**CONSOLIDATED MISCELLANEOUS CRIMINAL APPLICATIONS NO. 49 OF
2020 AND 50 OF 2020**

(Originating from Songea District Court, Economic Case No. 11 of 2020)

PETER ALPHONCE MANDE 1ST APPLICANT
JAMAL KAIMU MBALIKA 2ND APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of last Order: 17/02/2021

Date of Ruling: 22/02/2021

BEFORE: S.C. MOSHI.:

(Consolidated Application No. 49 and 50 of 2020).

The application is preferred under section 29 (4) (d) and 36 (1) of the Economic and Organized Crime Control Act, Cap. 200 (R.E. 209) and Article 13 (6) (b) of the Constitution of the United Republic of Tanzania of 1977 as amended from time to time.

The applicants applied for bail and any other orders as the court deem just and fit to grant.

However before the application was heard, the respondent filed a Notice of Preliminary objection on point of law to the following effect:-

"The application is incompetent before this honourable court since the offence which has charged with is not bailable."

I have considered the charge sheet, submission and the relevant laws. Both accused persons are charged with trafficking of Narcotic drugs contrary to section 5(1) (a) of the Drugs control and Enforcement Act [Cap. 95 R.E. 2019] read together with paragraph 23 of the first schedule to and section 57(1) of the Economic Crimes Control Act [Cap. 200 R.E. 2018].

The particulars of the offence in respect of Jamali Kaimu Mbalika shows that on 14th day of June, 2020 at Namatuhi village, Ndongosi area within Songea District in Ruvuma Region was found trafficking Narcotic drugs to wit Forty Four point Five four (44.54) kilograms of cannabis commonly known as '*bhangi*' from Namatuhi village to Songea town by using Motor Cycle with Registration Number MC. 370 BWH make HAOJUE.

The particulars of the offence relating to Peter Alphonse Mande reads thus; on 14th day of June 2020 at Namatuhi village Ndongosi area within Songea District in Ruvuma Region was found trafficking Narcotic drugs to wit fifty two point four six (52.46) kilograms of cannabis commonly known as "*Bhangi*" from Namatuhi village to

Songea town by using Motor Cycle with registration Number MC. 551 CKD make HAOJUE.

I need not say much; the applicants didn't say anything relevant to the preliminary objection. I at the outset agree with Mr. Barigila's submission. Section 29 (1)(b) of the Drug Control and Enforcement Act, Cap. 95 R. E. 2019 does categorically prohibit grant of bail for an accused person who is charged of an offence involving trafficking of cannabis, khat and any other prohibited plant weighing twenty kilogram or more.

Therefore my hands are tied up. I am inclined to sustain the preliminary objection.

That said, the preliminary objection is sustained. The application is dismissed.

Right of Appeal Explained.


S. C. MOSHI

JUDGE

17/02/2021

