

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 12 OF 2021

**(C/F Economic Case No. 86 of 2020, The Resident Magistrate Court of Arusha at
Arusha)**

HABETI ELIENEZA MCHOVU @ MBIRINYIKA.....1ST APPLICANT

BONIFACE BONAVENTURE IBAMBA @ BONI MSIBA.....2ND APPLICANT

VERSUS

THE D.P. P.....RESPONDENT

RULING

05/04/2021 & 02/06/2021

GWAE, J

The applicants, **Habeti Elieneza Mchovu @ Mbirinyika** and **Boniface Bonaventure @ Bono Msiba** have brought this application for bail under the provisions of section 149 of the Criminal Procedure Act Cap 20 R.E 2002, section 29 (4) (d) and 36 (1) of the Economic and Organized Crime Control Act Cap 200 R.E. 2002 read together with section 10 of the written laws (Misc. Amendments) Act No. 03 of 2016 for the orders that, this Court be pleased to grant and release

the applicants on bail pending trial and conclusion of Economic Case No 01 of 2019 which is pending in the Resident Magistrates Court of Arusha.


The essence of the applicants' application is contained in their joint affidavit which is to the effect that the offence to which the applicants stand charged is a bailable offence, that, they have reliable sureties who are willing and ready to execute the bail bond and also their release on bail shall not in any way interfere investigation. On the other hand, the respondent who was duly represented by the learned State Attorney **Mr. Ahmed Hatibu** did not contest the applicant save for bail conditions to be imposed as per the law.

The applicants stand charged with an offence termed "unlawful possession of Government trophy" contrary to sections 86 (1) & (2) (b) of the Wildlife Conservation Act, No.5 of 2009 read together with paragraph 14 of the 1st schedule to, and sections 57 (1) & 60 (2) both of the Economic and Organized Crimes Control Act (Cap 200 R.E 2002) as amended by sections 16 (a) and 13 (b) respectively of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

According to the charge, it is alleged that on the 29th January 2018 at Kawayia Village within Hai District in Kilimanjaro Region the applicants were jointly and together found in unlawful possession of Government trophies to wit; two (2) elephant tusks equivalent to one killed elephant valued at USD 15,000 which is

5. The applicants shall not leave out of the country without leave of the court being sought and obtained.
6. That, the applicants shall not commit any offence attracting a custodian sentence and they shall be entering appearances to the committing court and or trial court whenever they are required to do so.
7. Bail conditions hereinabove shall be thoroughly ascertained by the Deputy Registrar of the Court together with a State Attorney present.

It is so ordered,


M.R. Gwae,
Judge.
02/06/2021

Court: Right of appeal explained in respect of the bail conditions set out herein above.




M.R. Gwae,
Judge.
02/06/2021