

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM**

MISC. CRIMINAL APPLICATION NO. 227 OF 2020

*(Arising from Economic Case No. 86 of 2020 pending in the
Resident Magistrate Court of Dar es Salaam at Kisutu)*

AHMED ABECHA SABURI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

12/5/2021 & 12/5/2021

S.M. KULITA, J.

This is an application for bail pending trial at the Resident Magistrate Court of Dar es Salaam at Kisutu in the Economic Case No. 86 of 2020 filed by the Applicant herein, namely **AHMED ABECHA SABURI**. The said Applicant is represented by the Learned Counsel Mwanahamis Kilongo, from Kiliya Kilongo & Co. Advocate.

The application is made under section 29(4) and 36(1) of the Economic and Organized Crime Control Act [Cap 200 RE 2019]. It is supported with the affidavit affirmed by the applicant who seeks for bail pending trial in respect of the said case in which

the applicant together with the other 3 (three) persons have been charged with three counts; to wit **Leading Organized Crime**, one count; and **Unlawful Possession of Government Trophies**, two counts. The subject matters for that case are the trophies (Elephant tusks and Hippopotamus teeth) alleged to be valued at Tsh. 82,393,200/= in total.

Ms. Mwanahamis Kilongo, Advocate for the Applicant started her submission by praying for the applicant's affidavit together with its attachment to be adopted as part of her submission. The said Counsel submitted that the subordinate court is not vested powers to grant bail to the accused as the offences charged involve subject matters whose value exceed Tsh. 10,000,000/=, hence this application. She further submitted that the offences that the applicant has been charged with are bailable and it is his constitutional right to be released on bail. The Counsel said that the applicant is ready to abide with the bail conditions that will be imposed. She concluded by praying the court to grant bail to the applicant.

On the other hand, the Defence Counsel, Ms. Edith Mauya (State Attorney) has no objection for the applicant for the applicant to be released on bail.

According to the copy of the charge sheet, value of properties in dispute is Tshs. 41,151,600/= plus Tshs. 34,293,000/= plus

6,858,600/= whose total is Tshs. 82,393,200/=. There is no doubt that this application is uncontested but the applicant can only be released on bail upon fulfilment of the conditions set under section 36(5) and (6) of the Economic and Organized Crime Control Act [Cap 200 RE 2019]. Under that provision, among the conditions that the court is required to impose is for the applicant or any other person on his behalf, to execute cash bond or to surrender a property to court as security (preferably title deed) whose value is half value of the subject matter in question (property in dispute), and the rest half be executed by a promissory bond.

As the accused persons in the said matter (Economic case No 86/2020 – Kisumu RM's Court) are four in number, the said liability sum of Tshs. 82,393,200/= should be divided by a number of accused persons which is 4 (four) before the applicant is given the conditions for him to be released on bail. Hence the liability sum for each accused person including the applicant is Tshs. 20,575,800/=.

Vide the requirements of Section 36(5) and (6) of the Economic and Organized Crime Control Act, I hereby allow the applicant to be released on bail upon fulfilling the following conditions;

- (i) That, the Applicant or any other person on his behalf has to execute **cash bond at the tune of Tshs.**

10,287,900 which is half of the value of the liability sum ie. Tshs. 20,575,800/=. **Alternatively, to surrender a tittle deed** for the immovable property whose value is not less than 10,287,900/= until the matter is disposed of.

- (ii) The Applicant has to bring one surety, a resident of Dar es Salaam who shall execute a promissory bond of the same amount, Tshs. 10,287,900/=.
- (iii) The Applicant has to surrender his travel documents at the RM's Court.
- (iv) The Applicant is not allowed to leave the country without permission of the RM's court.

The parties to appear before the Deputy Registrar for execution of bail conditions.




S.M. KULITA
JUDGE
12/5/2021