

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT COURT OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 34 OF 2021

(Originating from Economic Crimes Case No. 01 of 2020, in the Resident Magistrate Court of Arusha at Arusha.)

JOHN FRANCIS HIBA @ JUMAPILI.....1ST APPLICANT

RAMADHANI S/O JUMANNE MAKANJA.....2ND APPLICANT

JUMANNE S/O FAUSTINE.....3RD APPLICANT

VERSUS

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

RULING

02/06/2021 & 18/06/2021

GWAE, J

In the Resident Magistrate's Court of Arusha at Arusha, the committing court, there is an Economic charge leveled against the applicants mentioned above. The Economic charge is in two counts, namely; Unlawful Possession of Government Trophy to wit; two elephant tusks which is equivalent to one killed elephant valued at USD 15000 equivalent to Tanzania Shillings Thirty-Four Million, Five Hundred and Two Thousand, Eight Hundred and Fifty (Tshs. 34,502,850/=) the property of the Government of the United Republic of Tanzania, contrary to

sections 86 (1) and (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) and 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) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

On count number two, the applicants are jointly and together charged with an offence of Unlawful dealing in Government Trophy to wit; selling of two (2) elephant tusks which is equivalent to equivalent to one killed elephant valued at USD 15000 equivalent to Tanzania Shillings Thirty-Four Million, Five Hundred and Two Thousand, Eight Hundred and Fifty (Tshs. 34,502,850/=) the property of the Government of the United Republic of Tanzania, contrary to section 80 (1), 84 (1) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14 of the 1st schedule to, and sections 57 (1) and 60 (2) both of the Economic and Organized Crimes Control Act, Cap 200 Revised Edition, 2002 (Act) as amended by sections 16 (a) and 13 (b) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

Following the fact that the amount involving in the charge with which the applicants are charged exceeding Tshs, 10,000,000/= the jurisdiction of the committing court is therefore clogged from entertaining an application for bail as per section **29 (4) (a)** of Cap 200. The applicants are now before this court

seeking grant of bail pending committal at the Committing Court and trial of the case. This application is brought under the provisions of Sections 149 of the Criminal Procedure Act Cap 20 R.E 2019, sections 29 (4) (d) and Section 36 (1) of the Economic and Organized Crime Act (supra) read together with Act No. 3 of 2016.

In their joint affidavit, the applicants stated that, the offences to which they stand charged with are bailable and that, their release on bail will not prejudice the interests of the Republic. The applicants further urged this court to grant them bail as they have reliable sureties.

The respondent filed his counter affidavit duly affirmed by the learned State Attorney one Ahmed Athuman Hatibu filed his counter affidavit which partly admitted and partly disputed the applicants' affidavit. On the date fixed for hearing of this application, the applicants appeared in person, unrepresented while the respondent was duly represented by **Mr. Hatibu**, learned State Attorney assisted by Ms. Getrude a wildlife officer from KDU.

The applicants had nothing useful to add to what is contained in their joint affidavit whereas Mr. Hatibu on the other hand insisted on the imposition of stiff bail conditions in order to guarantee appearance of the applicants during trial.

According to the wording of Section 29 (4) and 36 of the Act, the offences leveled against the applicants are legally bailable subject to conditions as stipulated

7. That, the applicants shall ensure that they regularly attend before the subordinate court or and trial sessions whenever ordered to do so
8. Bail conditions set herein above shall be ascertained by the Deputy Registrar of the Court together any state attorney available

It is so ordered,



**M.R. Gwae,
Judge.**

18/06/2021

~~**Court:** Right of appeal to the Court of Appeal only in respect of the bail conditions~~
set explained



**M.R. Gwae,
Judge.**

18/06/2021