

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
MBEYA DISTRICT REGISTRY
AT MBEYA

MISC. CRIMINAL APPLICATION NO. 22 OF 2021

**(Arising from Economic Case No. 04 of 2021 in the District
Court of Mbeya, at Mbeya).**

JOSEPH S/O NDOBO MWAMAHUSI.....APPLICANT

VERSUS

THE REPUBLICRESPONDENT

ORDER

01 & 02/06/2021.

Utamwa, J.

This is an order on an application for bail pending trial of an economic case. The applicant, JOSEPH S/O NDOBO MWAMAHUSI moved this court for the bail under section 36 (1) of the Economic and Organized Crime Control Act, Cap. 200 R.E. 2019 (the EOCCA). The application is supported by an affidavit sworn by the applicant himself.

In the affidavit, it was maintained that, the applicant is charged with an offence of Unlawful Possession of Fire Arm contrary to sections 20 (1) (a) (b) and (2) of the Fire Arms and Ammunition Control Act No. 2 of 2015 read together with paragraph 31 of the First Schedule of the EOCCA. The offence is bailable. It also deponed that, the applicant is seriously sick, his health will be deteriorating if he will remain in remand custody. He has children to look after since his wife passed away when

he was in prison remand. He will also abide to the bail conditions which will be set by this court.

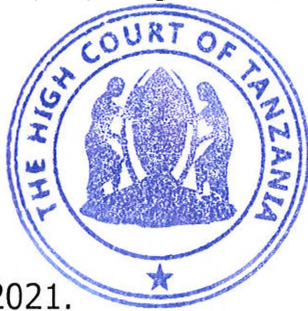
When the application was called upon for hearing, the applicant appeared in person, and unrepresented. He had nothing to add to what was stated in his affidavit in support of the application. On the other side, Ms. Zena James, learned State Attorney appeared for the respondent/Republic. She told the court orally that, the respondent was not objecting to the application.


I have considered the affidavit, the record and the law. In fact, I agree with the applicant that the offence of unlawful possession of fire arms he stands charged (in all the three counts) is bailable in law. I am also aware of the position of our law that, bail is both a statutory and constitutional right for an accused person. The purpose of granting bail to an accused person is to let him enjoy his freedom as long as he shall appear in court for his trial; see the decision by the Court of Appeal of Tanzania (CAT) in the case of **Hassan Othman Hassan @ Hassanoo v. Republic, Criminal Appeal No. 193 of 2014, CAT at Dar es Salaam** (unreported). Under the circumstances, I hereby grant bail to the applicant on the following conditions which are mandatory as per section 36 (5) (a)-(d) of the EOCCA:

- a) That, the applicant shall execute a bond of Tanzania Shillings (Tshs.) 5,000,000/= (Five million only) and shall have two reliable sureties and each surety shall execute a bond at the like sum.
- b) The sureties shall be residents within Mbeya Region which is the geographical jurisdiction of the lower court.
- c) That, the applicant shall appear before the lower court on specified dates, time and place.

- d) He shall also surrender his passport or any other travel documents (if any) to the Mbeya Central Police, and
- e) He is restricted from traveling outside Mbeya Region (being the territorial jurisdiction of the lower court), unless written leave is granted by the lower court.

It is ordered that, the sureties envisaged above shall be approved by the Deputy Registrar of this court. It is so ordered.




J.H.K. Utamwa
JUDGE
02/06/2021.

02/06/2021.


CORAM; JHK. Utamwa, J.

Applicant: present in person.

Respondent: Mr. Baraka Mgaya (State Attorney).

BC: Ms. Gaudensia, RMA.

Court: Order pronounced in the presence of the applicant and Mr. Baraka Mgaya, learned State Attorney for the respondent, in court, this 2nd June, 2021.


JHK. UTAMWA.
JUDGE.
02/06/2021.