

IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 103 OF 2021

(Originating from Economic Crime Case No. 71/2020 filed and pending for the trial in the Resident Magistrate's Court of Dar es Salaam Region at Kisutu)

ABDUL SEIF SOUD @ BABA MANSOUR 1ST APPLICANT
YUSUPH NASRI RASHID 2ND APPLICANT
JOSEPH SEVERINE ERIO 3RD APPLICANT
ABDALLAH KINDAMBA MWINYO 4TH APPLIANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

12th July, 2020.

E. E. KAKOLAKI J

This is uncontested application whereby the applicants have moved this court by way of chamber summons supported by joint affidavit to grant them bail. The offences with which are facing before the Resident Magistrates Court for Dar es Salaam Region at Kisutu in Economic Crime Case No. 71 of 2021 are bailable in which the total amount of property/money involved is ***Tanzanian Shillings Two Hundred Forty Million Fifty Four Thousand Nine Hundred Forty Eight*** (Tshs.

240,054,948/=). The applicants are charged jointly together with other two accused who are not party to this application. As this application for bail is involving more than one applicant the principle of sharing has to apply, and I find it opposite to establish each applicant's share of responsibility in the amount involved. Dividing the amount of money or the property involved which is Tshs. 240,054,948/= to six accused persons before the Resident Magistrates court for Dar es Salaam at Kisutu each one is responsible to **Tanzanian Shillings Forty Million Nine Thousand One Hundred Fifty Eight only.** (Tshs. 40,009,158/=).

Having perused the joint affidavit in support of the chamber summons and the charge sheet attached thereto, I am satisfied that the offences with which the applicants are booked with are bailable and that they have assured the court to have reliable sureties. Further to that they have promised to abide to the bail conditions and attend the case whenever needed, should their application be considered and granted. It is the law that bail is a constitutional right unless is specifically restricted by the law duly enacted by the parliament. That being the position, since the offences facing the applicants are bailable, applying the provisions of Sections 29(4)(d) and 36(5)(a)(b)(c)(d) and (6)(a)(b)(c) of EOCCA, I proceed to grant bail to the applicants on the following conditions.

- (1) Each applicant is to deposit in court cash half of **Tanzanian Shillings Forty Million Nine Thousand One Hundred Fifty Eight** (40,009,158/=) or the property equivalent to half value of the said amount and the rest of the amount be secured by execution of bond in writing.

- (2) Each applicant has to provide two reliable sureties who are to execute a bond of Tanzanian Shillings Ten Million (10,000,000/=) each, and to satisfy the court that sureties are either employees of the Government or possess National Identity Card issued by NIDA, with permanent residences within Dar es Salaam Region.
- (3) The applicant should not leave the jurisdiction of the court without prior permission for the Resident Magistrates Court for Dar es Salaam Region at Kisutu.
- (4) The applicants are to report to the Regional Crime Officer for Dar es Salaam Region in evidence with the schedule provided by him/her.
- (5) Verification of sureties and bond documents to be executed by the Resident Magistrate, at the Resident Magistrates Court for Dar es Salaam Region at Kisutu.
- (6) Each applicant is to surrender his/her passport and or any other traveling documents (if any) to the Resident Magistrate, at the Resident Magistrates Court of Dar es Salaam Region at Kisutu.

It is so ordered.




E. E. Kakolaki

JUDGE

12/07/2021

LATER ON AT 3:40 PM

Coram: E. E. Kakolaki, J

Applicants 1st

2nd

3rd

4th

All present in person

Respondent: Mr. Adolf Kisima (SA) holding brief for Mr. Genes Tesha (SSA)

CC: Msuya

COURT:

Ruling has been delivered today 12/07/2021 in chambers in the presence of all four applicants, Ms. MONICA MSUYA, Court Clerk and in the absence of the Respondent.




E. E. Kakolaki

JUDGE

12/07/2021

Right of Appeal explained.




E. E. Kakolaki

JUDGE

12/07/2021