

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

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 128 OF 2021

*(Arising from Economic Crime Case No. 132 of 2019 Resident Magistrates
Court of Dar es salaam Region at Kisutu)*

JUMA MOHAMED ZAAR..... 1ST APPLICANT
STEPHEN NATHANIEL MTUI..... 2ND APPLICANT
SAMWEL ALBAN SALU.....3RD APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of Order: 19/07/2021.

Ruling date: 19/07/2021.

E. E. Kakolaki, J

By way of chamber summons supported by the affidavit of one **Steven Bwana**, the applicants' advocate, this court has been moved to grant bail to the applicants in the case facing them, Economic Crime Case No. 132 of 2019, which is pending before the Resident Magistrates Court of Dar es salaam Region at Kisutu. The application which is uncontested has been preferred under section 29(4)(d) and 36 of the Economic and Organised Crime Control Act, [Cap. 200 R.E 2019] hereinafter referred to as EOCCA.

Briefly before the Resident Magistrates Court of Dar es salaam Region at Kisutu in Economic Crime Case No. 132 of 2021, the applicants herein are charged together with one colleague **Getrude John Kaniki** are facing charges on different counts of **Forgery**; Contrary to sections 333,335(a) and 337 and **Stealing by Servant**; Contrary to sections 258(1)(a) and 265 both offences under the Penal Code, (Cap. 16 R.E 2002). Other counts facing them are **Stealing**; Contrary to section 258(1)(a) and 265 of the Penal Code, (Cap. 16 R.E 2002) and **Occasioning Loss to the Specified Authority**; Contrary to Paragraph 10(1) of the First Schedule to and Section 57(1) and Section 60(2) of the EOCCA as amended. The amount of money involved concerning the three applicants only for the purposes of setting bail consideration is Tanzanian Shilling **Four Hundred Forty Eight Million Seven Hundred Twenty five Thousands Five Hundred Ninety Five and Three Cents** (Tshs. 448,725,595.3). If the principle of sharing is to apply by dividing that amount three, each applicant is responsible Tanzanian Shillings **One Forty Nine Million Five Hundred Seventy Five One Ninety Eight and Four Cents** (Tshs. 149,575,198.4).

During hearing both parties were represented and heard viva voce. The applicants traded under representation of Mr. Stephen Bwana and Mr. Methusela Mafwele both learned counsels whereas the respondent had the services of Ms. Estazia Wilson, State Attorney. As Mr. Bwana raised to address the court first he adopted the affidavit in support of the chamber summons to form part of his submission. The court was informed that the offences facing the applicants are bailable and that they have fixed abode as well as reliable sureties who can secure their presence before the court

at any time when needed. He therefore urged the court to grant the application.

As alluded herein above the application is not resisted by the respondent. However, the court was invited by Ms. Wilson to be guided with the provisions of section 36(5) of the EOCCA when setting bail conditions. I have dispassionately considered the submissions from both parties as well as travelling on what is deposed by the applicants in their affidavit in support of the chamber summons and satisfied myself that applicants are qualified to be considered for bail. Having so done and applying the provisions of section 36(5)(a)(b)(c)(d) and (6)(a)(b)(c) of EOCCA, I hereby proceed to grant bail to the applicants on the following conditions:

1. Each applicant is to deposit in Court cash half of Tanzanian Shillings **One Forty Nine Million Five Hundred Seventy Five One Ninety Eight and Four Cents** (Tshs. 149,575,198.4) or the property(s) equivalent to half value of the said amount and the rest of the amount be secured by execution of bonds in writing.
2. Each applicant has to provide two reliable sureties who are to execute a bond of Tanzanian Shillings Thirty Seven Million Five Hundred Thousand (Tshs. 37,500,000/) each, and to satisfy the court that sureties are either employees of the Government or possess a National Identity Card duly issued by NIDA with permanent residences within Dar es salaam Region.
3. Applicants should not leave the jurisdiction of the court without prior permission from the Resident Magistrates Court of Dar es salaam Region at Kisutu.

4. Verification of sureties and bond documents be executed by the Resident Magistrate, at the Resident Magistrates Court for Dar es salaam Region at Kisutu.
5. The applicants are to surrender their passports and any other travelling documents (if any) to the Resident Magistrate, Resident Magistrates Court for Dar es salaam Region at Kisutu.

DATED at DAR ES SALAAM this 19th day of July, 2021.




E. E. KAKOLAKI

JUDGE

19/07/2021

Ruling delivered today 19th day of July, 2021 in the presence of all applicants in person, Mr. Stephen Bwana and Mr. Methusela Mafwele advocates for the applicants who are also holding brief for Ms. Estazia Wilson, State Attorney, Ms. Asha Livanga, Court clerk and State Attorney for the Respondent.




E. E. KAKOLAKI

JUDGE

19/07/2021