

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY  
AT MWANZA**

**MISCELLANEOUS CRIMINAL APPLICATION NO. 05 OF 2021**

*(Arising from Economic Case No. 13 of 2020. In the Resident Magistrate's Court of  
Geita.)*

**FRANCESCO S/O MICHAEL.....APPLICANT**

**VERSUS**

**THE REPUBLIC .....RESPONDENT**

**RULING**

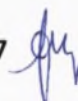
**Date of last order: 05/07/2021**

**Date of Ruling: 09/07/2021**

**F. K. MANYANDA, J.**

This is an application for bail by one Francesco s/o Michael who is charged with two counts of economic crimes namely, unlawful possession of ammunition. He is also charged with an offence of unlawful possession of explosives all being contrary to the Fire Arms and Ammunition Control Act, No. 2 of 2015 read together with paragraph 31 of the First Schedule to the Economic and Organized Crime Control Act, [Cap 200 R. E 2019].

The offence is triable by the High Court, Corruption and Economic Crimes Division and is bailable pending trial. The Applicant therefore made



an application before the committal Court, Geita District Court which declined to grant bail on reason that since the value of the subject matter is not disclosed in the charge sheet, then, it was not clothed with the requisite jurisdiction to try the application.

Due to that reason, the Applicant made the instant application under sections 29(4)(a) and 36(1) of the Economic and Organized Crimes Control Act, [Cap. 200 R. E. 2019] and Section 148(1) of the Criminal Procedure Act, [Cap 20. R. E. 2019]. I must say right from here that the applicable law is Section 294(a) of the EOCCA as it will be demonstrated later in this ruling.

At the hearing the Applicant argued his application personally unrepresented while the Respondent, Republic was represented by Ms. Georgina Kinabo learned State Attorney.

The Applicant after adopting the chamber summons and the supporting affidavit, narrated how he was arrested and charged with the offences stated above and prayed for bail pending trial. He promised to avail himself before the Court whenever he will be so required.

The State Attorney argued on a legal issue only because they did not contest the facts deposed in the affidavit.

The legal issue is that this Court has no jurisdiction to try this application under sections 36(1) and 29(4)(a) of the EOCCA. Her point is that the provisions cited above apply to the District Court or a Court of the Resident Magistrate in their committal jurisdiction. She added further that this Court (High Court) gets jurisdiction when the accused is arraigned before it. However, the High Court is not seized with jurisdiction to try economic crimes. It is the Corruption and Economic Crimes Division of the High Court which has exclusive jurisdiction to try economic crimes; but again has no jurisdiction to grant bail under the said provision of the law.

The Respondent been a lay person, had nothing useful to say rather than reiterating his stories on arrest and arraigning before the said committal Court and prayer for his application to be granted.

I have dispassionately gone through the chamber summons, affidavit and the stories by the Applicant on one hand and gone through the

ons by the State Attorney and the records generally on the other  
basically it is not disputed that the Applicant was arrested and charged  
o counts of economic crimes namely unlawful possession of  
ion and unlawful possession of explosives. Both counts are  
to the Fire Arms and Ammunition Control Act, No. 02 of 2015 read  
with paragraph 31 of the First Schedule to the Economic and  
d Crimes Control Act, [Cap. 200 R. E 2002] as amended by Act No.  
16.

the value of the subject matter is not disclosed in the charge.

It is in economic crimes is provided under section 29(4) of the EOCCA  
as amended by Act No. 3 of 2016. It reads:-

*29(4) After the accused has been addressed as required by  
subsection (3) the Magistrate shall, before ordering that he  
be held in remand prison, where bail is not petitioned for or  
is not granted, explain to the accused person his right, if he  
wishes, to petition for bail and for purposes of this section  
the power to hear bail applications and grant bail:-.*

*(a) between the arrest and the committal of the accused for  
trial by the Court, is hereby vested in the district Court*

*and the Court of the resident Magistrate if the value of any property involved in the offence charged is less than ten million shillings.*

- (b) after committal of the accused for trial but before commencement of the trial before the Court is hereby vested in the High Court.*
- (c) after the trial has commenced before the Court, is hereby vested in the Court.*
- (d) in all cases where the value of any property involved in the offence charged is ten million shilling or more at any stage before commencement of the trial before the Court is hereby vested in the High Court."*

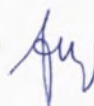
As it can be seen the provision quoted above vests in different Courts the power to hear and determine bail applications under the EOCCA depending on the stage the proceedings concerned has reached and the value of the property involved in the charge. It can be summarized as follows: -

- (a) The committal Courts namely, District Court and the Court of the resident Magistrate have powers between arrest and committal if the value is less than ten million shillings.

- (b) The High Court after committal but before commencement of trial where the value is ten million shillings or more; and
- (c) The corruption and Economic Crimes Division of the High Court after commencement of the trial regardless of the value.

In this application the stage of the proceedings is between arrest and committal for trial. The High Court could have power if the value of the property is more than ten million shilling or per interpretation of the Court of Appeal in the case of **Mwita Ikohi and 2 others vs Republic**, Criminal Appeal No. 60 of 2018 (unreported) at page 11 where it stated inter alia that: -

*"Of particular interest and relevance in this matter is section 29(4)(d). It confers on the High Court the jurisdiction to grant bail where the value of any property involved in the offence charged is Ten Million Shillings or more at any stage before commencement of the trial in the corruption and Economic Crimes. Division of the High Court."*






Again going by the clarification of the Court of appeal in **Ikohi's case (supra)**, the value of the property is a necessary ingredient in jurisdiction of this Court to grant bail to economic and organized crimes.

In the event, I agree with the State Attorneys submissions that this Court has no jurisdiction to hear and determine this application at this stage of proceedings which is between arrest and committal to the Corruption and Economic Crimes Division of the High Court. Moreover, lack of the value of the property involved makes it even worse.

Basing on the reasons stated above, I find that this application is misplaced. I do hereby dismissed the same for want of jurisdiction. Order accordingly.



  
**F. K. MANYANDA**  
**JUDGE**  
**09/07/2021**