

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(SUMBAWANGA DISTRICT REGISTRY)**

**AT SUMBAWANGA**

**MISC. CRIMINAL APPLICATION NO. 63 OF 2020**

(C/O Mlele DC Economic Crimes Case No. 21 of 2020)

**SISTO KATABI @ MACHO ..... APPLICANT**

**VERSUS**


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

Date: 10 & 10/08/2021

**RULING**

**Nkwabi, J.:**

The applicant is earnestly praying this court to grant him bail. He was arraigned before Mlele District court where he stands charged unlawful possession of firearm contrary to section 20(1)(b) and (2) of the Firearms and Ammunition Control Act, No. 2 of 2015 read together with paragraph 31 of the First Schedule to and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act, [Cap 200 R.E. 2002] as amended by Section 16(b) and 13(b) of the Written Laws (Miscellaneous Amendments Act, No. 3 of 2016.

  
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The applicant is too charged with one count of unlawful possession of ammunitions contrary to section 21(b) of the Firearms and Ammunition Control Act, No. 2 of 2015 read together with paragraph 31 of the First Schedule to and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act, [Cap 200 R.E. 2019]

He further stands charged with three counts of unlawful possession of Government Trophy contrary to section 86(1) and (2) (b) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 of the First schedule to and sections 57(1) and 60(2) of the Economic and Organized Crime Control, Act [CAP. 200 R.E. 2002.

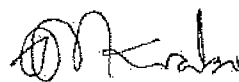
The application was supported by the affidavit of the applicant. In his affidavit, the applicant states under oath that the District Court of Mlele has no jurisdiction to entertain bail hence this application to the High Court. He further states under oath that he will abide with the bail conditions that will be set by this court and he has reliable sureties.



The application was not factually resisted by the respondent (The Republic) since the respondent did not file a counter affidavit. In **Mosses Ndosì v Suzana Ndosì, Misc. Land application no 117 of 2013** S. Moshi, J. was cited with approval in the case of **Emmanuel Gidahotay v Gambanyashita Muhale Misc land application no 41 of 2017** Maige, J. (as he then was) *"that failure to file a counter affidavit is a signification that the application is not factually opposed."*

I have heard both parties, and since the respondent does not object this bail application, without much ado, I grant the application for bail on the basis of the case of **Moses Ndosì** (supra). Bail conditions are set by this court as hereunder:

1. The applicant shall be out on bail upon depositing in court cash money to the tune of Tshs. 21,158,900/= or deposit in court title deed of immovable property whose value is proved through government valuer's report to be not less than T.shs 21,158,900/=. In case the applicant has no cash money to deposit or title deed, he shall provide



cogent proof of ownership of immovable property from the Village administration.

2. The applicant shall have two reliable sureties who shall execute bail bond at T.shs 31,000,000/= each to cover as well the counts in respect of unlawful ownership of firearm and ammunition respectively. Each surety shall have introductory letter from local government leader(s) of their locality where they reside.
3. Since the applicant ought to appear in the trial court, such appearance on the fixed date shall be deemed as reporting to the authority.
4. The applicant has to surrender any travel document that he possesses if any to the police or to the court.
5. The applicant shall not travel outside the jurisdiction of the High Court Sumbawanga Zone during the pendency of Economic crimes case the subject of this application for bail, save with the permission of the learned presiding Magistrate.
6. Ascertainment of compliance with the bail conditions set hereinabove shall be conducted by the Deputy Registrar of the High Court.

It is so ordered.

  
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DATED and signed at SUMBAWANGA this 10<sup>th</sup> day of August, 2021.



**J. F. Nkwabi**

**JUDGE**

~~Court~~ Ruling delivered in chambers this 10<sup>th</sup> day of August 2021 in the presence of Ms. Marietha Maguta, learned State Attorney for the Respondent and the applicant present in person.



**J. F. Nkwabi**

**JUDGE**