

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

**MISC CRIMINAL APPLICATION NO 47 OF 2021**

*(Originating from Economic crime case No.21 of 2021 from District court of  
Mpanda at Mpanda)*

**SHIMIYE MUSSA @CHUBWA ..... APPLICANT**

**VERSUS**

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

*Date of last order: 2<sup>nd</sup> August 2021*

*Date of Ruling: 3<sup>rd</sup> August 2021*

**RULING**

**NDUNGURU, J.**

In this application, the applicant Shimiye s/o Mussa @Chubwa is applying for the following orders: This honourable court be pleased to grant bail to the applicants on the conditions it may deem fit pending hearing and final determination of the Economic Crime case No 21 of 2019 now pending at the District Court of Mpanda at Mpanda and any other order(s) and reliefs as this court may deem just to grant.

This application is brought under section 29(4) (d) and section 36(1) of the Economic and Organized Crimes Control Act, Cap 200 R E 2019 as amended by the Written Laws (Miscellaneous Amendments) Act, No 3 of 2016. The application supported by the affidavit sworn by the applicant.

The respondent/Republic being served with the application opted not to file counter affidavit. During the hearing of the application the applicant appeared in person (unrepresented) while the respondent /Republic was represented by Mr. Simon Peres, the learned State Attorney.

When the matter was called for hearing, the applicant had nothing substantial to submit, to my opinion is due to the fact that the applicant being a layman could not address himself in legal arena. The applicant prayed to be granted bail just because bail is his right.

Responding to the applicant's submission, Mr. Peres the learned State Attorney had no objection to the application. He told the court that the applicant be granted bail upon compliance with the conditions to be imposed by the court.

From the application at hand what prompted the applicant to file this application seeking bail to this court is the fact that the applicant has been charged with the Economic offence that is Unlawful possession of firearm contrary to section 20(1) 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 section 60(2) (3) of the Economic and Organized Crime 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

From the outset, it is clearly known that the primary purpose of remanding the accused person in remand custody is not to punish him/her but to ensure that he/she will appear to take his trial. See **Jaffer v Republic** (1972) HCD No 92. Section 148 of the Criminal Procedure Act Cap 20 (R.E 2002) is the general provision of the law governing bail matters and which gives the court mandate and jurisdiction to entertain bail matters brought before it. Section 148 of the Act provides:

***(1)When any person is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court and is prepared at any time while in the custody of that officer or at any stage of the proceedings before that court to give bail the officer or the court, as the case may be, may subject to the following provisions of this section, admit that person to bail; save that the officer or the court may, instead of taking bail from that person, release him on his executing a bond with or without sureties of his appearance as provided in this section.***

The following positions of the law are also not disputed by the parties: that, offence with which the applicants are charged are bailable. It is also a clear 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 **Hassan Othman Hassan @ Hassanoo v. Republic, Criminal Appeal No. 193 of 2014, CAT at Dar es Salaam** (unreported). In that stance there is no reasonable ground for denying bail to the applicants in the matter at hand. It is more so considering the fact that, their application is not objected by the respondent/Republic.

Due to the above reasons, I find that, the applicants are entitled to the prayed bail. I accordingly, grant bail to the applicants on the following conditions:

***(a) The applicant to deposit cash 2,000,000/= in court.***

***(b) The applicant to have two reliable sureties who will have introduction letter from the local authority where they reside, a copy of identity card it be National identity or voter's registration card. If the***

***surety is an employee introduction letter must come from the employer likewise ID card. Each surety must sign a bond of 500,000/=***

***(c) The applicant must surrender travelling documents if he has.***

The applicant is restrained from travelling out of Katavi Region without written permit of the District Magistrate in charge. The sureties envisaged under the conditions of bail set above shall be approved by the District Magistrate in charge of Mpanda District court. I further order the court file of the District Court and ruling of this court be returned immediately to District Court of Mpanda at Mpanda for approval of sureties. It is so ordered.



  
**D.B. NDUNGURU**

**JUDGE**

**03/8/2021**

The following positions of the law are also not disputed by the parties: that, offence with which the applicants are charged are bailable. It is also a clear 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 **Hassan Othman Hassan @ Hassanoo v. Republic, Criminal Appeal No. 193 of 2014, CAT at Dar es Salaam** (unreported). In that stance there is no reasonable ground for denying bail to the applicants in the matter at hand. It is more so considering the fact that, their application is not objected by the respondent/Republic.

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