

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

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 137 OF 2021

(Originating from Economic Crime Case No. 105 of 2019 the Resident
Magistrate's Court of Dar es Salaam at Kisutu)

ABDULRAHAMAN HAMZA NJOZI APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of last Order: 26/07/2021

Date of Ruling: 30/07/2021

Itemba, J.

Abdulrahman Hamza Njozi herein the applicant, together with one other person, stand charged before the Resident Magistrate's Court of Dar es Salaam at Kisutu in Economic Crime Case No. 105 of 2019.

As per the charge sheet, the applicant is charged with the offences of **Forgery** c/s 333, 335(d)(i) and 338 and **Stealing by Servant** c/s 258(1)(2)(a) and 271 both counts of the Penal Code [Cap 16 RE 2002] and **Occasioning Loss to a specified authority** contrary to paragraph 10(1) of the First schedule to, and Section 57(1) and Section 60(2) of the

Economic and Organized Crime Control Act (Cap 200 RE 2002), herein Cap 200.

He is alleged to have forged 47 CRDB Bank cheques for account number O1J1028249500 in the name of NATIONAL SOCIAL SECURITY FUND BOARD OF TRUSTEES, with a total value of Tanzanian Shillings Two Billion, One Hundred Thirty Million, Two Hundred Eleven Thousand, Four Hundred Thirty Seven and Thirty Five Cents (**Tshs. 2,130,211,437.35/=**) purporting to show that the same were genuine cheques drawn and issued by the Board of Trustees of the NSSF, a fact which he knew to be false. He is also alleged to have stolen the same amount of money from his employer, the NSSF.

The applicant is also alleged to have caused the NSSF to suffer a pecuniary loss of Tanzanian shillings Two Billion One Hundred Thirty Million, Two Hundred Eleven Thousand, Four Hundred Thirty Seven and Thirty Five Cents (**Tshs. 2,130,211,437.35/=**) by failing to discharge his duties in a reasonable manner.

On 12th July 2021, under the Certificate of Urgency, the applicant filed this application for bail which is supported by the affidavit of Mr. Abdulfattah Albakry, the applicant's advocate.

The application was not contested by the respondent. The learned Senior State Attorney Ms. Jennifer Masue, urged the Court to consider the provisions of section 36(5)(a) of Cap. 200 in setting bail conditions, should the application be allowed. Mr. Albakry was inquired by the Court as regard his citation of enabling provisions in the Chamber Summons. He explained

that there was an oversight and omission of enabling sections in the said citation. Upon been granted leave to amend the Chamber Summons, he prayed that section 148(3) and 392A of the Criminal Procedure Act Cap 200 R.E 2019 be omitted and Section 36(1) of Cap. 200, be inserted.

Mr. Albakry briefly submitted that the applicant is praying to be admitted to bail as the offences which he is facing are bailable and he is ready to meet bail conditions.

Upon hearing the submission from both parties, since the applicant has undertaken to abide by bail conditions and there being no objection from the respondent, the Court will grant this bail application in accordance with mandatory provisions of Section 36(5) and (6) of Cap. 200.

Thus, the applicant is admitted to bail pending trial subject to the following conditions:

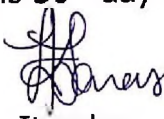
1. The applicant to deposit in court, cash amounting to half of Tanzanian Shillings Two Billion One Hundred Thirty Million, Two Hundred Eleven Thousand Four Hundred Thirty Seven and Thirty Five Cents. (**Tshs. 2,130,211,437.35/=**) or property/properties equivalent to half value of the said amount and the rest of the amount to be secured by execution of bond in writing. The principle of sharing to apply.
2. The applicant has to provide three (3) sureties who are to execute a bond of Tanzanian Shillings One Hundred and Eighty Million (**Tshs. 180,000,000/=**)

3. The applicant should not leave jurisdiction of the Court without prior permission from the Resident Magistrates Court of Dar es Salaam at Kisutu.
4. The applicant shall continue to attend his case on a date and time scheduled.
5. Verification of sureties and bond documents to be executed by the Resident Magistrate, in Resident Magistrates Court of Dar es Salaam Region at Kisutu.
6. The applicant should surrender his passports and any other travelling documents (if any), to the Resident Magistrate, Resident Magistrates Court of Dar es Salaam Region at Kisutu.

It is so ordered.

DATED at DAR ES SALAAM this 30th day of July, 2021.




L. J. Itemba

JUDGE

30/07/2021

Ruling delivered today this 30th day of July 2021 in the presence of the applicant in person, Mr. Abdulfattah Albakry learned Counsel for the Applicant and Ms. Jennifer Masue, learned Senior State Attorney for the Respondent.