

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

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 200 OF 2021

(Originating from Economic Crime Case No. 66 of 2021 the Resident
Magistrate's Court of Dar es Salaam at Kisutu)

JOHN KISHAKI KATARAIYA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date of last Order: 15/09/2021

Date of Ruling: 17/09/2021

Itemba, J.

John Kishaki Kataraiya herein the applicant, together with other 3 persons, stand charged before the Resident Magistrate's Court of Dar es Salaam at Kisutu in Economic Crime Case No. 66 of 2021.

As per the charge sheet, the applicant is charged with the offence of **Unlawful possession of Government Trophies** c/s 86(1) (2) (c) ii and 3 of the Wildlife Conservation Act No. 5 of 2009 read together with Paragraph 14 of the First schedule to, Section 57(1) and Section 60(2) of

the Economic and Organized Crime Control Act (Cap 200 R.E 2019), herein Cap 200.

The appellant is alleged to have been found in possession of Government Trophies to wit 8 pieces of elephant tusks valued at Fifteen Thousand United State Dollars (**USD 15,000**) which is equivalent to Tanzanian Shillings Thirty-Four Million Three Hundred Nineteen Thousand One Hundred and Nine (**Tshs. 34,319,109/=**).

On 2nd of September 2021 under the Certificate of Urgency, the applicant under the service of his advocate, Mr. Jerome Joseph Msemwa, filed this application for bail which is supported by his own affidavit.

The application was not contested by the respondent. The learned State Attorney Ms. Mauya, 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. Msemwa was inquired by the Court as regard his citation of enabling provisions in the Chamber Summons. He explained that there was an oversight in the said citation. Upon been granted leave to amend the Chamber Summons, he prayed to omit section 148(3) of the Criminal Procedure Act Cap 200 R.E 2019.

Mr. Msemwa briefly submitted that the applicant is praying to be admitted to bail as the offence which he is facing is bailable and he is ready to meet bail conditions which will be set by the Court.

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.

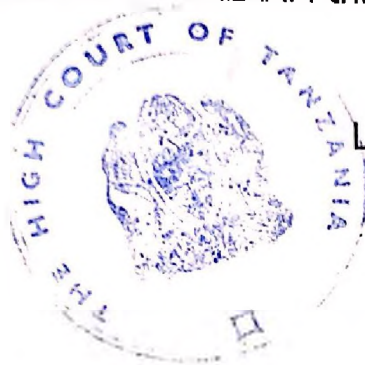
Thus, the applicant is admitted to bail pending trial subject to the following conditions:

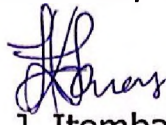
1. The applicant to deposit in court, cash amounting to half of Tanzanian Shillings Thirty-Four Million Three Hundred Nineteen Thousand One Hundred and Nine (**Tshs. 34,319,109/=**) or property/properties equivalent to half value of the said amount and the rest of the amount to be secured by execution of bond in writing. The principle of sharing to apply.
2. The applicant has to provide two (2) sureties who are to execute a bond of Tanzanian Shillings Two Million One Forty-Five Thousand (**Tshs. 2,145,000/=**) each, and to satisfy the Court that sureties are either employees of the Government or possesses a National Identity Card issued by NIDA with permanent residence within Dar es salaam Region.
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 17th day of September, 2021.




L. J. Itemba

JUDGE

17/09/2021

Ruling delivered today this 17th day of September 2021 in the presence of the applicant in person, Mr. Amon Ndunguru learned Counsel for the applicant, Ms Tupokigwe RMA, and in the absence of the Respondent.

Right of appeal explained.





L. J. Itemba

JUDGE

17/09/2021