

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

**MSC. CRIMINAL APPLICATION NO. 180 OF 2021**

(Originating from Economic Case No. 10 of 2021 before the Court of the Resident Magistrate - Kibaha)

**SALUM NYANYAGI MAGENGE .....APPLICANT  
VERSUS  
THE REPUBLIC .....RESPONDENT**

**RULING**

Date of Last Order: 13/10/2021

Date of Ruling: 15/10/2021

**MASABO, J.:**

Salum Nyanyagi Magenge is charged of unlawful possession of fire arm make shotgun and unlawful possession of ammunition comprising of five shotgun ammunition, 42 spent cartridges and 162 ammunition balls contrary to sections 20(1) and (2), 21 and 60 of the Fire Arms and Ammunitions Control Act No. 2 of 2015 read together with section 57(1), 60(2) and paragraph 31 of the First Schedule to the Economic and Organized Crimes Control Act [Cap. 200 R.E 2019] herein after referred to as EOCCA.

He has moved this court by a chamber summons made under section 29 (4) (d) of the EOCCA and his main prayer is that he be admitted on bail pending trial. In the affidavit he has deponed that the offence against which he stands charged isailable but he could not apply for bail before the Court of the Resident Magistrate for Kibaha as

the pecuniary value involved in the offence is above Tshs 10,000,000. The Respondent raised a preliminary point of law that the application is untenable as the charge sheet appended to the application does not ascribe any value to the fire arms and the ammunitions involved.

Invited to submit on this point, Ms. Sofa Bimbiga, the learned State Attorney who appeared for the respondent, submitted that, as the charge sheet is silent on the value of the offence, the application was wrongly filed in this court under section 29(4)(d) of the EOCCA and as it does not have the pecuniary value necessary to cloth this court with jurisdiction. He argued that should this court proceed to determine the application it shall be assuming the jurisdiction it does not have contrary to the position in **Mwita Joseph Ikohi & 2 others v R**, Criminal Appeal No. 60 of 2018, CAT (unreported). On his part, the applicant did not have much to submit. His was just a request to this court to determine the matter and direct the appropriate and competent forum to determine his application.

We have given a due consideration to both submissions and we are inclined to agree with the submission made by the learned State Attorney. As correctly argued by the learned counsel, the jurisdiction of courts to hear and determine applications for bail in economic offences as provided for under section 29(4) of EOCCA, is dependent upon the state of the case and the pecuniary value involved in the offence against which the applicant stand charged. According to section 29(4)(a) and (d) from which the jurisdiction of this court on bail matters obtains, this court can hear and determine an application for bail at any stage prior

to the commencement of trial if the pecuniary value of the property involved in the offence is Ten Million Shillings or more (**Mwita Joseph Ikohi & 2 others v R (supra)**). Therefore, aside from the fact that the trial has not commenced, which is the case here, the court must be certain that the pecuniary value of the property involved in the offence is Tshs 10,000,000/= or more. Otherwise, it my risk assuming the jurisdiction it does not have.

Now therefore, since the charge sheet does not ascribe any value to the fire arms and the ammunities involved in the offences, I find no justification to entertain the application as in doing so I will certainly risk assumption of the jurisdiction not vested in this court. Accordingly, I strike out the application and direct that the applicant be brought before the Court of the Resident Magistrate for Kibaha where the applicant is arraigned so that his application can be heard and determined.

Order Accordingly.

Dated at Dar es Salaam this 15<sup>th</sup> October 2021.

15/10/2021



X

A handwritten signature in black ink, appearing to be "J.L. MASABO", written over a horizontal line.

Signed by: J.L.MASABO

**J.L. MASABO**  
**JUDGE**