

**THE UNITED REPUBLIC OF TANZANIA  
JUDICIARY  
IN THE HIGH COURT OF TANZANIA  
MBEYA DISTRICT REGISTRY  
AT MBEYA  
MISC. CRIMINAL APPLICATION NO. 83 OF 2021  
(Originating from The District Court of Mbeya at Mbeya,  
Economic Crime Case No. 16 of 2021)**

**ROSE d/o DAUDI.....1<sup>ST</sup> APPLICANT  
FREDRICK s/o ASAKWE FUNGO.....2<sup>ND</sup> APPLICANT  
MASUDI s/o TUGHIMBAGE.....3<sup>RD</sup> APPLICANT  
JAPHET s/o KAJANJA MBALAWALA.....4<sup>TH</sup> APPLICANT  
LAINI s/o SHITAMBALA MWAVIPA.....5<sup>TH</sup> APPLICANT  
ALEX s/o MWAMLANDA KIJOMBO.....6<sup>TH</sup> APPLICANT  
JIDITH d/o MBWILO MWALYOYO.....7<sup>TH</sup> APPLICANT**

**VERSUS**

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

**R U L I N G**

*Dated: 05<sup>th</sup> & 5<sup>th</sup> November, 2021*

**KARAYEMAHA, J**

This is an application preferred by the applicants seeking for bail pending determination of the main suit whereby they stand charged with conducting investments without approval of the Registrar contrary to section 74 (1) (d) and 126 (1) (h) (i) of the Cooperative Societies Act No. 06 of 2013.

This application is based on section 29 (4) (d) and 36 (1) of the Economic and Organized Crimes Control Act, (Cap 200 R.E 2019) (The

EOCCA). Supporting the application are affidavits dully sworn by applicants setting out grounds on which the prayer for bail is based.

The application has been heard orally. Applicants were under the legal assistance of Mr. Omary Issa Ndamungu, Baraka Mbwilo and Mr. Isaya Mwanri while the respondent was represented by Mr. Saraji Iboru, learned Principal State Attorney.

At the hearing Mr. Mbwilo, who marshaled the submission, first adopted all applicants' affidavits and maintained that the applicants are reliable persons who will be available during the trial, will not interfere with the investigation process and will not commit any other offence while on bail. He put his reliance in the decision of the case of ***Patel v Republic*** (1971) HCD 391.

He stated further that applicants have reliable sureties and substantial immovable properties.

On the other hand Mr. Iboru submitted soundly that the respondent did not object the application.

I have anxiously considered the application and parties arguments. Undisputedly, the offence that applicants stand charged is bailable under the law and this Court is endowed with powers to grant bail. I am equally aware of the position of our law that, bail is both statutory and constitutional right for an accused as correctly contended

by Mr. Mbwilo. It is a trite position that the purpose of granting bail to accused persons is to let them enjoy their freedom as long as they will appear in Court for trial as per the case of ***Hassan Othman Hassan @ Hassanoo v Republic***, Criminal Appeal No. 193 of 2014, Court of Appeal of Tanzania at Dar es Salaam (Unreported). It is also the position that when the Court is satisfied that applicants will not interfere with investigation and will not commit another offence, it is then warranted to grant bail. See the case of ***Patel v Republic***, (supra).

Considering all the circumstances and the fact that the respondent has not resisted the application, I hereby grant bail to the applicants on the following conditions which are mandatory as per section 36 (5) (a) of the EOCCA:

1. That, each applicant shall execute a bond of Tshs. 54,198,928/= and shall have two reliable sureties and each surety shall execute a bond at the like sum.
2. The sureties shall be residents of Mbeya Region which is the geographical jurisdiction of the Resident Magistrate Court of Mbeya.
3. That applicants must surrender to the Central Police Station, that is, to RCO – Mbeya, their passport (if they have) or any travel documents.

4. That applicants shall appear before the Court on specified dates, time and place.

5. Applicants are restricted from travelling outside Mbeya Region, which is the territorial jurisdiction of the lower Court, unless written leave is granted by the Resident Magistrate In charge.

It is further ordered that sureties envisaged above shall be approved by the Deputy Registrar of this Court.



It is so ordered.

A handwritten signature in blue ink, appearing to be "J. M. Karayemaha".

**J. M. Karayemaha**  
**JUDGE**  
**05/11/2021**

**Court:** Ruling pronounced in the presence of the applicants and Mr. Saraji Iboru, learned Principal State Attorney, Mr. Omary Issa Ndamungu, Mr. Baraka Mbwilo and Isaya Mwanri for all applicants in Court this **5<sup>th</sup> November, 2021.**

A handwritten signature in blue ink, appearing to be "J. M. Karayemaha".

**J. M. Karayemaha**  
**JUDGE**  
**05/11/2021**