

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**ARUSHA DISTRICT REGISTRY**

**AT ARUSHA**

**MISC. CRIMINAL APPLICATION NO. 59 OF 2021**

(C/F Economic Crime Case No. 103 of 2019 at the Resident Magistrate court of  
Arusha at Arusha)

**TAUTA MBUYU @ KIMANI ..... 1<sup>ST</sup> APPLICANT**

**VERSUS**

**RAJABU KASUNI MAKORI MAKWANI**

**@MAKORI KASUNI @ HAJI KASUNI.....2<sup>ND</sup> APPLICANT**

**VERSUS**

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

**RULING**

6/8/2021 & 20/8/2021

**ROBERT, J:-**

The two Applicants herein seek to be admitted on bail pending trial. The two of them are charged with two counts of Economic Offences at the Resident Magistrates' Court of Arusha in Economic Case No. 103 of 2019. In the first count they are charged with, Unlawful possession of Government Trophy namely, Giraffe's head and meat which is equivalent to one killed Giraffe valued at USD 15,000 or TZS

32,790,000/=. In the second count they are charged with, Unlawful Hunting of the Specified Animal which is one Giraffe valued at USD 15,000 or TZS 32,790,000/=.

When this application came up for hearing the applicants were present in person without representation whereas the Respondent was represented by **Ms. Mary Lucas**, State Attorney.

Supporting the application, the Applicants submitted that they pray for a reasonable bail conditions so that they may be bailed out by their relative. The Republic, on the other hand, did not wish to object the application.

The question this Court is left to grapple with is whether the Applicants qualifies to be admitted in bail pending trial. Taking into consideration the fact that the offences charged against the Applicants are bailable, the Republic did not wish to object to granting of bail and the primary consideration in granting bail is interest of justice to the accused and the complainant, it is clear that the Applicants' application has the requisite merit, to begin with.

It is a settled law that the purpose of arrest and putting the accused in custody is to secure his attendance during the trial and to ensure that he is available to receive and serve sentence if convicted.

Granting bail is based on the principle of presumption of innocence and the right to freedom which are enshrined under Article 13 (6) (b) and 15 of the **Constitution of the United Republic of Tanzania**, 1977 (as amended from time to time). In the case of **Patel vs. Republic** (1971) HCD 391, the Court held that: -

*"..... whilst awaiting trial is as of right entitled to bail, as there is presumption of innocence until contrary proved...."*

In the circumstances of this case, I find no reason to deny the Applicants application to be admitted on bail pending trial.


Based on the requirements of section 36 (5) of the Economic and Organized Crimes Control Act, Cap. 200 (R.E.2019) the Applicant may be released on bail upon fulfilling the following conditions:

1. Applicants to deposit cash or Title deed of a property or property approved to have the value equivalent to half the amount or value of the money or property for which the applicant is charged, that is 32,790,000/= divided equally between the two Applicants. Each Applicant will therefore deposit cash or title deed or property approved to have the value equivalent to TZS 16,395,000/=.

2. The Applicant to produce two reliable sureties each of whom has to execute a bond of Tshs.8,197,500 /=-.
3. Each applicant to appear before the Resident Magistrates' Court of Arusha at Arusha whenever Economic Crime Case No 103 of 2019 is scheduled by the court to proceed.
4. Each Applicant to surrender his passport and other travel documents, if any, to this court.
5. Verification and scrutiny of the bond documents for sureties and Applicant shall be executed by the Deputy Registrar of the Court.

It is so ordered.



  
K.N. ROBERT  
JUDGE  
20/8/2021