

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM REGISTRY
AT DAR ES SALAAM**

MISC.CRIMINAL APPLICATION NO.279 OF 2021

(Arising from Economic Case No15 of 2021, Court of the Resident Magistrate Kibaha at
Court of Kibaha, at Kibaha)

DANIEL HALFAN MZANGE1ST APPLICANT

GELARD JOACKIM.....2ND APPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

23/12/2021 & 24/12/2021

MASABO, J.

This ruling is in respect of an application for bail. The applicants have jointly moved this court by way of chamber summon filed under section 29(4) (d) and 36(1) of the Economic and Organized Crime Control Act [Cap. 200 R.E. 2019] (EOCCA). The summons is supported by two affidavits of the applicants through which they deposed that they stand jointly charged before the Court of the Resident Magistrate for Kibaha at Kibaha with several offences, including unlawful possession of Government trophies to wit, 45 hippopotamus teeth worth Tshs 26,72,000/= contrary to section 86(1) and 2(b) of the Wildlife Conservation Act No.5 of 2009 read together with paragraph 14 of the first schedule to and sections 57(1) and 60(2) of the EOCCA; leading organized crime contrary to paragraph 4(1)(a) of the first schedule to and sections 57(1) and 60(2) of EOCCA; and unlawfully possession of fire arms contrary to sections 20(1) and (2) of the Firearms

and Ammunition Control Act, No.2 of the 2015 read together with paragraph 31 of the first schedule to and sections 57(1) and 60 (2) the EOCCA.

The application was uncontested. The respondent did not file a counter affidavit and when the parties appeared before this court for hearing, Ms. Sofa Bimbiga, the learned state Attorney who appeared for the respondent notified the court that the respondent has no objection to the application but prayed that if this court is pleased to grant bail it should consider the bail conditions under section 36(5) of EOCCA which requires the applicant to deposit in court one half of the of the total value of the asset involved in offence, surrender of passport and restriction of movement. She prayed further that, the applicants be required to have sureties who are residents of Pwani Region who are reliable and readily available when required. Lastly, she prayed that, verification of residence of the sureties and other bail conditions be done by the Resident Magistrate in Charge of the Court of the Resident Magistrate for Kibaha at Kibaha.

For the Applicants, Mr. Nestor Mkoba, learned counsel, welcomed the learned State Attorney's submission and prayed that the applicants be admitted on bail as they are all residents of Pwani and have sureties who are reliable thus, there is no risk of abscondment.

Having carefully considered the application and submissions, it is a common ground that, the offences against the applicants are bailable. It is also a common ground that the total value of Government trophies involved in the

offence against which the applicants stand charged is Tshs 26,72,000/= hence as per section 29(4)(d) of the EOCCA it is within the jurisdiction of this court to grant bail. Since the application is uncontested, I allow the application. The applicants are hereby admitted on bail pending trial subject to fulfilling the following conditions:

1. As the total value involved in the offences is 26,72,000/= Tshs; the Applicants shall deposit Tshs 13,371,000/= being half of the total value. In view of the principle of sharing, since there are accused persons, each applicant shall deposit in court a sum of Tshs 6,685,500/= or, in the ALTERNATIVE, deposit a Title Deed of an immovable property of the value not less than Tshs 6,685,500/= The immovable property must be located within Cost region and shall be free from any encumbrance. The other half, that is, Tshs 6,685,500/= will be executed by signing a bond;
2. Each Applicant must produce two reliable sureties and each surety shall sign a bond in the sum of 1,000,000/=. The sureties must be resident within Pwani with recognized place of abode and must have National ID and letter of introduction from their respective local government authority;
3. Each applicant shall surrender his passport or any travelling documents (if any);
4. The movements of the applicants shall be confined within Pwani. They shall not leave without the permission of the Court of the Resident Magistrate for Kibaha at Kibaha.

5. The Applicants shall continue to attend to their case on the date and time scheduled;
6. The Resident Magistrate in charge of the Court of the Resident Magistrate for Kibaha at Kibaha shall verify the sureties and all bail documents before each applicant is released on bail.

Order accordingly.

DATED at DAR ES SALAAM this 24th day of December 2021

24/12/2021

X



Signed by: J.L.MASABO

J.L. MASABO
JUDGE

