

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

MISC. ECONOMIC CRIMINAL APPLICATION NO. 15 OF 2021

(Arising from the Resident Magistrate Court of Bukoba at Bukoba in Economic Case No. 35 of 2021)

OSCAR JOAS @ KANUNA & ANOTHER----- APPLICANTS

Versus

THE REPUBLIC----- RESPONDENT

RULING

Date of Ruling: 24.12.2021

Mwenda, J.:

This is an application brought under sections 29(4) (d) and 36 (1) of the Economic and Organized Crime Control Act [CAP 200 R.E 2019] and section 392 A (1) and (2) of the Criminal Procedure Act [CAP 20 R.E 2019].

It is supported by a chamber summons and an affidavit sworn by Mr. Niyikiza Seth learned Advocate for the applicants. The applicants are praying for the following orders that:

1. That this Honourable court be pleased to grant a bail to Applicants on conditions as this Honourable court may be deemed fit and just to grant, pending hearing and determination of RM Economic Case No. 35 of 2021, proceeding at Bukoba Resident Magistrate Court.

2. Any other relief (s) as this Honourable court may deem fit and just to grant.

When served with the application papers the respondent Republic did not file any counter affidavit.

When this matter came for hearing the applicants were present and Mr. Niyikiza Seth stood and argued this application on their behalf. The respondent republic was represented by Mr. Juma Mahona learned state attorney.

During submission in support of the applicants' application, Mr. Niyikiza Seth, learned Advocate stated that, the applicants are facing charges for Economic offences before the Resident Magistrate's Court.

He said the charge sheet before the subordinate Court contain three counts whereby the second count and the 3rd counts show that the value of property involved is Tshs 102,825,000/=. The learned advocate submitted that section 29 (4) (d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2019] vests powers to the High Court to hear application for bail and grant bail in all cases where the value of the property involved in the offence charged is ten million shillings or more.

The learned advocate submitted further that bail is the accuseds' constitutional Right and added that his clients are ready to comply with the bail conditions as shall be set by this court.

In response to the submissions by the learned advocate for the applicants, Mr. Juma Mahona, learned state Attorney submitted that, the republic is supporting this application. He said it is true that the applicants are charged before the Resident Magistrate Court in Economic Case No. 35 of 2021 where the value of the property involved is Tshs. 102, 825, 000/=. For that matter, he said, this court is mandated to hear bail application and grant bail in accordance to section 29 (4) (d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2019]. He thus prayed this court to grant bail with the conditions as set under section 36 (5) and (6) of the Economic and Organized Crime Control Act [Cap 200 R.E 2019].

Having summarized the submissions by both parties it is clear that the applicants are charged before the Resident Magistrate Court in Economic Case No. 35 of 2021 for offences falling under the Economic and Organized Crime Control Act [CAP 200 R.E 2019]. The value of the property involved in the second count is Tshs 68,550,000/= and for the third count is Tshs 34, 275,000/= both making a total of Tshs 102,825,000/=.

It is thus clear that by virtue of section 29 (4) (d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2019], it is this court which is vested with powers to hear bail application and grant bail.

This section reads as follows;

S. 29 (1) N/A

(2) N/A

(3) N/A

(4)..... The Magistrate shall, before ordering that he be held in remand prison where bail is not petitioned for or is not granted, explained to the accused person his right if he wishes, to petition for bail and for the purpose of this section the power to hear bail application and grant bail.

(a) N/A

(b) N/A

(c) N/A


(d) in all cases where the value of any property involved in the offence charged is ten Million Shillings or more at any stage before commencement of the trial before the court is hereby vested in the High Court."

That being said this court hereby grant bail to the applicants upon fulfilling the following conditions as stated under section 36 (5) (a), (b), (c) and (d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2019] as follows:-

- (1) That each applicant shall deposit 51,412,500/= or immovable property of equivalent value situated within Kagera Region
- (2) Each applicant shall have two reliable and credible sureties who shall sign a bond of Tshs. 51,412,500/=
- (3) Each applicant shall have two credible and reliable sureties with fixed abode within the jurisdiction of the trial court.
- (4) Each applicant shall surrender all travelling documents (if any) to the deputy registrar, High Court of Tanzania, Bukoba.
- (5) Each applicant is restricted from travelling outside Kagera Region without a prior written consent sought and granted by the deputy Registrar, High Court of Tanzania at Bukoba
- (6) Each applicant shall be duty bound to appear in court on all dates that shall be scheduled by the court.
- (7) These bail conditions shall be verified/ ascertained by the magistrate at Bukoba Resident Magistrate Court assigned with Misc. Economic Application No. 35 of 2021 before releasing the applicants on bail as above prescribed.

It is so ordered.




A.Y. Mwenda

Judge

24.12.2021

This ruling is delivered in chamber under the Seal of this court in the presence of the applicants and their learned counsel Mr. Niyikiza Seth and in the presence of the learned counsel for the respondent Mr. Juma Mahona.




A.Y. Mwenda

Judge

24.12.2021

