

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

MBEYA DISTRICT REGISTRY

AT MBEYA

MISC. CRIMINAL APPLICATION NO. 27 OF 2022

*(Originating from the District Court of Kyela in,
Economic Crimes Case No. 01 of 2022)*

AMANYISYE S/O SYONI MWAKISYENJELE..... APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Dated: 27th May, 2022

NGUNYALE, J

This is an application preferred by the applicant seeking for bail pending determination of the case whereby he stand charged with the offences of interfering with necessary service contrary to section 20 (1) & (2) (a) of the First Schedule to, and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act and occasioning loss to a specified authority contrary to paragraph 10 of the First Schedule to, and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act [Cap. 200 R.E. 2019] herein abbreviated as EOCCA.

The application is predicated under sections 29 (4) (d) and 36 (1) of the EOCCA, it is supported by the affidavit dully sworn by applicant setting out grounds on which the prayer for bail is based. The respondent, Republic did not lodge counter affidavit.

The application was heard orally, the applicant appeared in person, had no legal representation while the respondent was represented by Mr. Eliaman learned State Attorney.

At the hearing the applicant being a layman had nothing to cement of his application. He just prayed to be granted bail pending trial.

On the other hand, the respondent apparently informed this Court that they did not object the application. However, submitted that the court should comply with section 148(5) of the Criminal Procedure Act [Cap 20 R: 2019] in setting bail conditions.

I have considered the application and parties arguments. Undisputedly, the offence that applicant stand charged is bailable under the law and this Court is endowed with powers to grant bail under section 29 (4) (d) of the EOCCA, considering that the value of the property involved is above ten million. I am equally aware of the position of our law that, bail is both statutory and constitutional right for an accused. It is a trite position that the purpose of granting bail to accused person is to let him enjoy his freedom as long as he 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).

Considering all the circumstances, averments in the affidavit by applicant which is unopposed by the respondent I hereby grant bail to the applicant. This being the economic offence I do not share the view by the learned State Attorneys that conditions for bail are set out under section 148 (5) of the CPA rather under EOCCA. The mandatory conditions as per section 36 (5) (a) (b), (c) and (d) of the EOCCA are imposed to the applicant, that is;

- i. That, the applicant shall execute a bond of Tshs. 450,000,000/= and shall have two reliable sureties and each surety shall execute a bond at the like sum.
- ii. That each surety for applicant shall deposit either cash Tshs. 450,000,000/= or a title deed of an immovable property whose value is equivalent to such amount.
- iii. That sureties shall be residents of Kyela District which is the geographical jurisdiction of the District Court of Kyela
- iv. That applicant must surrender to the Police Force, that is, to OCS –Kyela, his passport or any travel documents (if any).

v. That the applicant shall appear before the Court on specified dates, time and place.

vi. That the applicant is restricted from travelling outside Kyela District, which is the territorial jurisdiction of the lower Court, unless written leave is granted by the District 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




D.P. Ngunyale
Judge
27/05/2022