

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 17 OF 2022

(C/f The Resident Magistrates court of Arusha Economic Case No. 44 of 2018)

EMILY PAREMENA MASSAWEAPPLICANT

VERSUS

THE REPUBLIC REASPOIDENT

RULING

01/06/2022 & 01/06/2022

KAMUZORA, J.

This application was brought under the provision of section 29(1) (d) and 36(1) of the Economic and Organised Crimes Control Act Cap 200 R.E 2019. The Applicant is applying for bail pending hearing and determination of the Economic case pending before the subordinate court.

The Applicant stands charged before the Resident Magistrates Court of Arusha at Arusha for the offence of unlawful possession of Government trophy contrary to section 86 (1) and (2)(b) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 of the 1st Schedule to and sections 57 (1) and 60 (2) of the Economic and

Organised Crimes Control Act Cap 200 RE 2002 as amended by section 16(a) and 13(b) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

The particulars of offence reveals that the Applicant together with 3 others were found in unlawful possession of Government Trophies to wit 206 kilograms of Giraffe's meat equivalent to Tshs 33,786,000/= the property of the Government of the United Republic of Tanzania without permit from the Director of Wildlife.

The Applicant being charged with Economic offence to which the subordinate court lacks pecuniary jurisdiction to entertain, he invoked the provision of section 36 (1) of the Economic and Organised Crimes Control Act Cap. 200 RE 2019 to seek for bail before this court. The said provision reads:

36. -(1) "After a person is charged but before he is convicted by the Court, the Court may on its own motion or upon an application made by the accused person, subject to the following provisions of this section, admit the accused person to bail."

In the affidavit in support of the application it was deponed that, the Applicant is aged over 80 years and he is the bread winner of his family. That, his continual detention will amount to punish his innocent

family. That, the Applicant has reliable sureties ready and willing to execute bond and or sureties as the terms and condition shall be set by the court. That, the Applicant resides at Buguruni-Namanga area within Longido District in Arusha Region and the he guaranties to remain present in Tanzania and that in any way he shall not jump bail.

When the matter was called for hearing, Ms. Amina Kiango, Learned State Attorney appeared for the Respondent, the Republic while Mr. Steven Magambo appeared for the Applicant. In the outset, Ms. Amina did not object the application and stated that, after reading the chamber summons and the affidavits in support of the application and considering the provision of section 36(1) (2) of Cap 200 R.E 2019 and also after considering that the offence to which the accused is charged with is bailable, she had no objection rather supported the grant of bail to the accused upon meeting the requirement set under section 36(4) of Cap 200 R.E 2019.

The Applicant's counsel submitted that, since the republic does not object bail then they pray the court to set reasonable conditions to be met by the Applicant.

The law is clear as stated by the learned State Attorney that, bail can be granted for the offence to which the Applicant is charged. While

the offences to which the Applicant is charged are bailable offence, the court while granting bail need to consider the requirement of the law under section 36 (1) of Cap. 200 RE 2019. Since the bail is not disputed, in considering the provision of 36(4) of Cap 200 R.E 2019 the accused application for bail is granted in the following conditions: -

1. The accused to execute cash money equivalent to half the amount to which he is charged with which is, Tshs. 16,818,750/= or shall present title deed/ ownership documents with similar value.
2. The rest of the amount shall be executed by bond.
3. The accused shall present two reliable sureties with Identification and introduction letters.
4. The accused shall attend court proceedings in all dates scheduled or if summoned.

It is so ordered.

DATED at ARUSHA this 1st day of June, 2022.

