

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 76 OF 2022

CATHERINE FRANCIS NAYIDA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

**(From the Resident Magistrate's Court of Dar es Salaam at Kisutu
in Economic Case No. 71 of 2020)**

RULING

30th and 30th June, 2022

KISANYA, J.:

This is an application for bail pending trial by Catherine Francisco Navida. It is made under section 29(4)(d) and 36(1)(7) of the Economic and Organized Crime Control Act [Cap. 200, R.E. 2019] and supported by an affidavit sworn by the applicant on 7th June, 2022.

The supporting affidavit shows that the applicant and other five accused persons (who are not a party to this application) were arraigned before the Resident Magistrate's Court of Dar es Salaam at Kisutu for offences of leading organized crime, unlawful possession of Government Trophies, Unlawful dealing in trophies, forgery and failure to register sim card previous owned by another person contrary to the relevant laws. It is

worth noting that the offences preferred against the applicant and other accused persons involve Government trophies to wit, elephant tusks valued at Tshs. 240,054,948/=.

When this matter was called on for hearing, the Court wanted to satisfy itself on whether the application was properly before it and whether it was not required to be made before the committal court.

The applicant who appeared in person conceded that the case subject to this application is at committal stage. She also conceded that she had not moved the trial court to admit her to bail pending trial. Indeed, the supporting affidavit bears it out that this application is made on the understanding that the committal court has no jurisdiction to determine the application for bail due to the value involved in the offence preferred against the applicant. Ms. Yasinta Peter, learned State Attorney who appeared for the respondent held the similar position. She went on to urge me to grant the application.

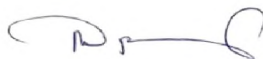
I have considered the application and the submission made by the parties on the issue raised by the Court. It is clear that this application was made without knowledge of the current position of law. Pursuant to section

29(4)(a) of the Economic and Organized Crime Control Act (supra) as amended by section 35 of the Written Laws (Miscellaneous Amendments) Act, 2022, during the period between the arrest and the committal of the accused for trial, the committal court which has jurisdiction to hear bail application and grant bail if the value of any property involved in the offence charged is less than three hundred million shillings. Since it is not disputed that the applicant's case is at committal and that the value of trophies involved thereto is below three hundred million shillings, I am of the considered view that this application ought to have been made before the committal court.

For the reason I have endeavored to state, this application is hereby struck out. The applicant is advised to lodge the same before the Resident Magistrate's Court of Dar es Salaam at Kisutu for its determination in accordance with the law.

It is so ordered

DATED at DAR ES SALAAM this 30th day of June, 2022.



S. E. Kisanya
JUDGE

COURT: Ruling delivered this 30th day of June, 2022 in the presence of the applicant and Ms. Yasinta Peter, learned State Attorney.



S.E. Kisanya
JUDGE
30/06/2022