

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(DAR-ES-SALAAM DISTRICT REGISTRY)**

**AT DAR-ES-SALAAM**

**MISC. CRIMINAL APPLICATION NO. 137 OF 2022**

**(C/O Dar-es-Salaam RM Economic Crimes Case No. 50 of 2022 at Kisutu)**

**HAMIS HARUNI STAMBULI @ KIJIKA ..... 1<sup>st</sup> APPLICANT**

**JUMA HARUNI STAMBULI @ MTANZANIA ..... 2<sup>nd</sup> APPLICANT**

**VERSUS**

**THE REPUBLIC ..... RESPONDENT**

**RULING**

Date: 19 & 19/10/2022

**NKWABI, J.:**

By chamber summons, the applicants are moving this Court to grant them bail. The chamber summons is made under section 29(4) (d) of the Economic and Organized Crimes Control Act Cap. 200 R.E. 2019. They also cited section 392A (1), (2) and section 149 of the Criminal Procedure Act, Cap 20 R.E. 2019. They were arraigned before the Resident Magistrates Court of Dar-es-Salaam at Kisutu facing several counts in an economic crimes case number 50/2020.

In the Committal Court, the applicants stand charged with unlawful dealing in Trophies contrary to section 80(1) and (2), 84 (1) and part 1 of the 1<sup>st</sup>

schedule 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 Economic and Organized Crime Control, Act [CAP. 200 R.E. 2019, apart from another counts.

The application is supported by the joint affidavit of the applicants. The application was not resisted by the respondent, as the respondent did not file a counter affidavit. It is overused law that where an application is not countered through an affidavit in reply, that application is deemed to be uncontroverted, see **Martin D. Kumaliya & 117 Others v. Iron and Steel Ltd.**, Civil Application No. 70/18 of 2018 (CAT), (unreported):

*As hinted earlier, the respondent, for obviously an inexplicable cause, filed no affidavit in reply after being served with the notice of motion. We must hasten to observe, therefore, that the absence of an affidavit in reply means that averments in the supporting affidavit are uncontroverted.*

After hearing the counsel of both parties, and since the respondent does not object this bail application in that the respondent merely prayed this court

to consider the provisions of section 36 (1) (4)(e) of the Economic and Organized Crimes Control Act while granting bail, with the provision of law in my mind and without much ado, I grant the application for bail as it is a legal right of the applicants. Bail conditions are set as hereunder:


1. Each applicant shall be out on bail upon depositing cash money to the tune of T.shs. 64,500,370/70 equivalent to half of the value of the trophies or deposit title deed or any proof of immovable property whose value is proved through government valuer's report to be not less than T.shs 64,500,370/70 equivalent to half of the value of the trophies.
2. Each applicant shall have two reliable sureties who shall execute bail bond at T.shs 64,500,370/70 each. Each surety shall have introductory letter from local government leader(s) of their locality where they reside.
3. Since the applicants ought to appear in the committing court, such appearance on the fixed date shall be deemed as reporting to the authority.
4. Each applicant has to surrender to the R.C.O. travel document that he possesses, if any.

5. The applicants shall not travel outside the jurisdiction of the High Court Dar-es-Salaam Zone during the pendency of economic crimes case the subject of this application for bail, save with the permission of the learned presiding Magistrate.
6. Ascertainment of compliance with the bail conditions set hereinabove shall be conducted by the Deputy Registrar of the High Court.

It is so ordered.

**DATED** at **DAR-ES-SALAAM** this 19<sup>th</sup> day of October, 2022.



  
**J. F. NKWABI**  
**JUDGE**