

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

**(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**CRIMINAL SESSION CASE NO. 43 OF 2017**

**REPUBLIC**

**VERSUS**

**MSHUJAA UDUGU MATATA**

**PROCEEDINGS**

**22 / 11/2022**

Coram: L. Mansoor ,J

Cc: Justar

Accused : Present under custody (Unrepresented)

Athumani Yassin Omar- Representative

Respondent : Beata Kittau, Senior State Attorney

Subira Mwalumuli Senior State Attorney,

**Beata, Kitau Senior State Attorney:**

The case comes for plea hearing. We pray for hearing on 28/11/2022, as we could not get the exhibit from the Exhibit keeper, ADU.

**Accused:**

I do not have any representation, in the plea agreement, I had waived the right to be represented by an advocate but my relative Athuman Yassin Omari had represented me in the plea agreement.



**Order:** Plea hearing on 28/11/2022. Summons to issue to the accused.

**Sgd: L. Mansoor**

**Judge**

**22/11/2022**

**28 / 11/2022**

Coram: L. Mansoor ,J

Cc: Justar

Accused : Beata Kittau Senior State Attorney, Hannelore

Manyanga, PSA

Present under custody

Inspector Idrisa Muroke

Republic: Present under custody

For the Accused : Athuman Yassin, brother in law of the accused,

**Beata, State Attorney:**

The matter is for registration of the Plea Bargaining Agreement. We pray to register the Agreement vide section 194 (D)(1) of CPA; Cap 20 R.E. 2019.

**Court:**

Before registering the Agreement, the court asks the accused if the agreement was voluntarily obtained (section - 194 (D) (2), and he says.

**Accused:**

Naufahamu Mkataba wa Makubaliano nimeusoma, nimeulewa, nimeingia bila ya kulazimishwa, sijaahidiwa chochote na wala sikuteswa. Nimeingia katika mkataba kwa hiari yangu.

(Signed)  
**Accused**

**Accused:**

Accused says, I know the plea bargaining Agreement, I have read and understood it. I was not forced, induced, or tortured to enter into the Agreement.

I entered into the Agreement voluntarily on my own free will.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Court:**

The plea Agreement executed by the accused and witnessed by his relative one Athumani Yassin, on one part and the prosecutor represented by Beata A. Kittau the Senior State Attorney, and Hannelore Manyanga

PSA, on 28/11/2022 is hereby registered. The agreement shall be binding upon the prosecution side and the accused, and the agreement shall become part of the records of the court.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Court:** The Accused is placed under oath and he affirms that he shall speak the truth and all truth.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022.**

The court informs the accused of his rights as provided in section 194(E) of Criminal Procedure Act, that

1. By accepting the plea agreement he is waiving his rights to a full trial.
2. By entering into a plea agreement, he is waving his rights to appeal except as to the extent and legality of sentence, and



3. The prosecution has the right, in the case of prosecution for perjury or false statement, to use all statement that you give in the agreement, against you;

**Accused** : I understood my rights.

**(signed)  
Accused**

**Court:**

The charge is read over to the accused in Kiswahili language, and he is required to plead thereto.

**Plea:**

Ni Kweli Mheshimiwa, It is true my Lord.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

Court asks the prosecution to read the factual basis for the plea bargaining agreement.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata, State Attorney:**

We have prepared the written facts, and we pray that they be adopted to form part of the proceedings.

**Court:**

Facts filed by the prosecution today on 28/11/2022, on the basis for recording the plea agreement are adopted to form part of the records, the same are read over to the accused in Kiswahili language.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Court**

Asked the accused if the facts read over are correct, he says.

**Accused:** The facts read over are correct.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Court|:** The court is satisfied that as per section 194(F) (c) of CPA, the case qualifies for plea bargaining.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Court:**

The Agreement is signed in the presence of the court by the Accused one MSHUJAA UDUGU MATATA@ ABDALLAH MAULID KAIKAI and his relative Athuman Yassin, and also by Ms Beata Kittau , the Senior State Attorney and Ms Hannelore Manyanga Principal State Attorney and investigator Insp Idrisa Musuke this 28<sup>th</sup> day of November, 2022.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata, State Attorney:**

We pray to tender the 102 pellets of drugs of Cocaine Hydrochloride weighing 1002.97 grams.

**Accused:**

No objection; these were the drugs I was caught with.

**Court;**

102 pellets of drugs, weighing 1002.97 grammes of Cocaine Hydrochloride are admitted and marked as exhibit P1.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata, Senior State Attorney;**

We pray to tender the Observation Form. It was completed when the Accused was secreting the pellets, we also pray to tender the Report of the Chief Government Chemist, and the Certificate of value of Narcotic Drugs.

**Accused:**

No objection.

**Court:**

The 3 observation forms dated 17.3.2014 at 02.25 hrs, Report from the Chief Government Chemist dated 20/7/2015 with Ref No. 95/XXXIII/01/97, and the Certificate of value of Narcotic Drugs and Psychotropic substance dated 3 September 2015, are all admitted and marked as exhibit P2, collectively.



**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata, Senior State Attorney:** We pray to tender the passport of the offender, visa and telephone make HTC.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022.**

**Accused:** No objection.

**Court:**

Passport No. AB362172 issued to Mshujaa Udugu Matata, copy of visa issued by Brazil on 18<sup>th</sup> February 2014, and one broken telephone make HTC, are admitted and marked as exhibit P3, p4 and P5 respectively.

**Beata, Senior State Attorney:**

We pray to tender the receipt of payment of Tshs 40,000,000 by the offender, showing his readiness to pay the compensation for entering into the plea bargaining Agreement.

**Offender:**

No objection.

**Order:**

The receipt No. 28813397 dated 8/11/2022, for payment of Tshs 40, 000,000(Forty Million) as compensation to the Government is received as evidence and marked as Exhibit P6.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022.**

**Beata, Senior State Attorney:** That is all.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022.**

**Court:**

The court has accepted the plea agreement and hereby records it, consequently the accused person, MSHUJAA UDUGU MATATA @ ABDALLAH MAULID KAIKAI is hereby convicted of the offence of Trafficking in Narcotic Drugs contrary to section 16(1) (b) (i) of the Drugs and Prevention of Illicit Traffic in Drug Act (cap 95 R.E. 2002) as amended by the Law (Misc. Amendments (No.2) Act No. 6 of 2012, on his own plea of guilty.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**SENTENCE**

Having paid the compensation as agreed in the Plea Bargaining Agreement recorded by the court today, the offender MSHUJAA UDUGU MATATA @ ABDALLAH MAULIDI KAIKAI is hereby discharged of the offence of trafficking in Narcotic Drugs C/S 16(1) (b) ( i) of the Drugs and Prevention of Illicit Traffick in Drugs Act Cap 95 R.E. 2002) as amended by written Laws ( Amendment Act No.2) Act No. 6 of 2012, on condition that he shall commit no offence for the period of 12 months from the date of this order.

The offender Mshujaa Udugu Matata @ Abdallah Maulid Kaikai shall be released from imprisonment/ remand custody immediately unless he is held for any other lawful cause.

As agreed in the plea Agreement , the offender Mshujaa Udugu Matata @ Abduallah Maulid Kaikai has already paid to the Government Tshs 40,000,000/= as evidenced in receipt ( Exhibit P6), admitted in court today.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata Senior State Attorney:**

On behalf of the Government, we pray for destruction of Exhibit P1. We also pray that Exhibit P1 should remain in the custody of ADU until the directives for destruction are given.

**Court:**

102 pellets of Cocaine Hydrochloride weighing 1002.97 received by court as evidence and marked as Exhibit P1 shall be stored at Drug Control and Enforcement Unity (ADU) under the supervision and care of SSP Neema until destroyed. The Court orders the destruction of Exhibit P1 by the Drugs Control and Enforcement Authority in the presence of the Registrar of the High Court, Dar es Salaam Zone, and in the presence of Police Officer or Seizing Officers and in the presence of the State Attorney, and the officer from Chief Government Chemist. The Drug and Enforcement Authority shall give 30 days' Notice of intention to destroy exhibit P1, to the court, to the Chief Government Office and to the Police



and State Attorney's Office, and during destroying all these officers must be present. It is so ordered.

**Sgd: L. Mansoor**

**Judge**

**28/11/2022**

**Beata, Senior State Attorney:**

We pray that the passport and telephone be returned to the offender.

That is all.

**Court:**

One phone, (broken) Make HTC and passport shall be returned to the offender. Rest of the exhibits shall be stored in the Court Exhibit Room until they are disposed of.



A handwritten signature in blue ink, appearing to read "L. Mansoor", is written over the printed name.

**L. Mansoor**

**Judge**

**28/11/2022**