

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

MISC.CRIMINAL APPLICATION NO.10 OF 2022

(C/f Economic Case No. 1 of 2022 in the District Court of Arumeru at Arumeru)

JOHN MICHAEL MOLLEL.....1st APPLICANT
LOVOI MNARA KIMENEGA.....2ND APPLICANT
ELIAKIMU LOTU @ KIVYO.....3RD APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Date of last order:28-3-2022

Date of Ruling :29-3-2022

B.K.PHILLIP,J

The applicant lodged this application under the provisions of sections 29(4) (d) and 36 (1) of the Economic and Organised Crimes Control Act (Cap 200 R.E. 2019),praying for the following Orders;

- i) That this Honorable Court be pleased to grant and release the applicants on bail pending trial of Economic Case No1 of 2022 which is before the District Court of Arumeru at Arumeru.

- ii) Any other relief(s) this Honorable Court deems fit and just to grant.

The application is supported by an affidavit sworn by the learned Advocate Joshua Jonas Minja. The applicants herein are charged of three counts to wit; 1st Count: leading Organized Crime contrary to paragraph 4(1) of the 1st schedule to and sections 57 (1) and 60 (2) of the Economic and Organised Crime Control Act , Cap 200, R.E 2019, in which it is alleged that on or about 19th December, 2021 at Likamba Village within Arumeru District in Arusha Region, the applicants Jointly and together, intentionally organized and managed a criminal racket by collecting , transporting and selling Government Trophy to wit, one elephant Tusk valued at Fifteen Thousand United States Dollars (USD 15,000) which is equivalent to Tanzania Shillings Thirty Four Million Four Hundred Ninety nine Thousand Eight Hundred Fifty (Tzs 34,499,850.00) only , without a permit from the Direct of Wildlife. 2nd Count for 2nd and 3rd applicants: 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 First Schedule to and sections 57 (1) and 60 (2) both of the Economic and Organised Crime Control Act, (Cap. 200 R. E. 2019), in

which it is alleged that on 19th December 2021 at Likamba Village within Arumeru District in Arusha Region, the 2nd and 3rd applicant jointly and together , were found in possession of Government Trophies to wit, One elephant tusk valued at Fifteen Thousand United States Dollars (USD 15,000) which is equivalent to Tanzania Shillings Thirty Four Million Four Hundred Ninety Nine Thousand Eight Hundred Fifty (Tzs 34,499,850.00/=) only the property of the Government of the United Republic of Tanzania without a permit from the Director of wildlife.

At the hearing of this application the learned Advocate Joshua Jonas Minja appeared for the applicants whereas the learned State Attorney Lilian Kowero appeared for the Republic. The learned State Attorney Ms Kowero informed this Court that the Respondent is not contesting the application since the offences charged against the applicants are bailable. Mr Minja started his submission by adopting the contents of the affidavit in support of this application and went on submitting as follows; That the offences charged against the applicants are bailable. There is no any certificate from the Director of Public Prosecution certifying that it is likely that granting bail to the applicant would prejudice the interests of the Republic.

None of the applicants has committed any of the wrongs stipulated in section 36 (4) of the Economic and Organised Crime Control Act, which could move this Court not to grant this application. The applicants are willing and ready to meet all the conditions for bail which shall be ordered by the Court in event this application is granted. Furthermore, Mr Minja contended that bail is not a privilege. It is a right of an accused person.

Having heard Ms Kowero and Mr. Minja as well as perused the affidavit in support of this application, I am satisfied that this application has merits.

Therefore I admit the applicants to bail under the following conditions;

- i) That each applicant shall deposit a sum of Tshs 11,499,950/= or a Title Deed of an immovable property or any other document evidencing the existence of such a property whose value shall be equivalent to Tshs 11,499,950/=
- ii) That each applicant shall have two sureties who must come from the area of the jurisdiction of this Court with introductory letters from the area of locality or from their employer(s).
- iii) That each surety shall sign a bond to tune of Tshs 2,000,000/=

- iv) That each surety must have either Passport or National Identity or Driving Licence or Voter's Card and sureties' particulars must be clearly recorded.
- v) The applicants are prohibited to leave the jurisdiction of this Court without a leave of either the committing Court or this Court.
- vi) The applicants are to ensure that they do not commit any offence attracting a custodian sentence while on bail, in the event they commit any offence they shall show cause why their bail should not be cancelled.
- (vii) Bail conditions stated herein above shall be done by the Deputy Registrar of this Court together with the State Attorney.

It is so ordered.



Dated this 29th day of March 2022


B.K.PHILLIP

JUDGE