

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 101 OF 2021

(C/F Economic Crime No. 3 of 2021 before Karatu District Court of Karatu)

NICOLAUS PATRICE (Tlatlaa @ Nichola).....1st APPLICANT

MARTINE KANUTI ANDREA.....2ND APPLICANT

DOMICIAN BOAY SAFARI.....3RD APPLICANT

VS

THE REPUBLIC.....RESPONDENT

RULING

05.05.2022 & 06.05.2022

N.R. MWASEBA, J.

Nicolaus Patrice (Tlatlaa @ Nichola), Martine Kanuti Andrea and Dominician Boay Safari who are the applicants in this case are standing charged with the 2nd offence of Unlawful Hunting of Scheduled Animals without Permit, contrary to section 47 (a) 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 Organized Crimes Control Act, [Cap. 200 R.E 2019].

Their case is pending before the District Court of Karatu at Karatu. Currently, the applicants are still in remand and they are praying for bail pending trial. This application was made under Section 29 (4) (d) and 36 (5) (a) of the Economic and Organized Crime Control Act, Cap 200 R.E 2019. It is supported by joint affidavit sworn by all applicants.

When the application was called for hearing, the applicants appeared in person, unrepresented whilst the respondent, Republic was represented by Ms. Eunice Makala, Learned State Attorney. The hearing proceeded orally.

Submitting before the court, the 1st applicant told the court that, his family is suffering because he is in custody thus, he is praying for bail so that he joins his family. The 2nd applicant told the court that the environment in custody is not friendly so they are praying for the mercy of the court to be granted bail. As for the 3rd applicant he told the court that he had little children and prays for the mercy of the court to grant him bail.

On her side, Ms Eunice Makala Learned State Attorney for the respondent told the court that, the offence which the applicants stand charged with is a bailable one. So, she does not have any objection for the applicants

to be granted bail. However, she urged the court when setting bail conditions to consider **Section 29 (5) of Economic and Organised Crime Act**, Cap 200 R.E 2019.

Having heard the submissions from both sides, I find that this application is not contested. The only issue is on how the bail conditions will be set. The applicant being charged with an economic offence, bail conditions are prescribed under **Section 36 (5) of the Economic and Organized Crime Control Act** [Cap 200 R.E 2019]. This provision, among other things, requires the applicant to pay cash deposit or submit to court the security whose value is at least half of the value of the property or money involved. The rest value is required to be executed by bond.

As the accused is presumed innocent till proved otherwise as provided for under **Article 13 (6) of our Constitution**, 1977 and since the offence with which the applicants are charged is legally bailable. Hence denial of the applicants' bail shall be prejudicial not only to them but also to the public at large.

In the circumstance, the application for bail pending trial is hereby granted. I accordingly admit the applicant to bail upon complying with the following conditions:

1. The Applicants should not travel outside Arusha Region without prior approval of the District Court of Karatu at Karatu.
2. The applicants to deposit cash or Title deed of a property or property approved to have the value equivalent to half the amount or value of the money or property for which the applicants are charged, that is 69,435,000/= divided equally between the three (3) applicants. Therefore, the applicants will deposit cash or title deed, or property approved to have the value equivalent to TZS 11,572,500/=.
3. Each applicant should have two reliable sureties with fixed abode within the jurisdiction of the trial Court;
4. Each surety should produce an introductory letter from his or her employer or local authorities and a copy of recognized identity card.
5. Each surety shall execute a bail bond in the sum of Tshs. 6,000,000/=
6. The applicants shall appear in court on a specified dates and time before Karatu District Court; and
7. The Deputy Registrar of the High Court of Arusha shall insure that all the bail conditions are fulfilled before, the applicant is released on bail.

It is so ordered.

DATED at **ARUSHA** this 6th day of May, 2022.



N.R. MWASEBA

JUDGE

06.05.2022

