

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF MWANZA
AT MWANZA**

MISC. CRIMINAL APPLICATION NO. 4 OF 2022

**(Arising out of Economic Case No. 02/2022 in the Resident Magistrate
Court of Mwanza at Mwanza)**

JACKSON S/O NDOBEJI.....APPLICANT

VERSUS

THE REPUBLIC..... RESPONDENT

RULING

16 & 17 February 2022

Itemba, J.

This is an application for bail pending trial made under S.29(4) and 36(1) of The Economic and Organised Crime Control Act, Cap 200 R.E. 2019, herein Cap 200. The application is by way of chamber summons supported by an affidavit, it is also filed under Certificate of Urgency.

Brief facts which led to this application are that, the applicant Jackson Ndombeji stands charged with Economic Crime Case No. 02 of 2022 before the Resident Magistrate Court of Mwanza. He is facing ten counts namely; **Embezzlement and misappropriation** contrary to section 28(2) of the Prevention and Combating of Corruption Act No.

11/2007, **Occasioning Loss to a Specified Authority** contrary to paragraph 10 of the First schedule to, and Section 57(1) and Section 60(2) of Cap 200 and seven other counts of **Forgery** Contrary to Section 333, 335(a), 337 of the Penal Code (Cap. 16 R.E 2002).

It is alleged that between 28th March 2015 and 28th June 2015 the applicant, being a National Co-ordinator of East Africa Communities Organization for management of Lake Victoria (ECOVIC) cum project, within Ukerewe District within the City and Region of Mwanza, forged seven different receipts. It is further alleged that the applicant fraudulently misappropriated a total of Tanzanian Shillings Twenty-Five Million Three Hundred Eighty Five Thousand (**Tshs. 25,385,000**) which was under his control and as a result he caused East Africa Communities Organization for management of Lake Victoria to suffer a pecuniary loss of the said amount.

At the hearing of this application, the applicant was represented by Mr. Baraka Dishon learned counsel while Ms. Gisela Alex, learned state attorney appeared for the respondent.

Submitting for the applicant Mr. Dishon prayed for the affidavit which is deponed by Mr. Fidelis Mtewele advocate to be adopted. He prayed for the applicant to be granted bail as pleaded for in the Chamber Summons. The learned counsel submitted that the applicant was arraigned before the Resident Magistrate's Court of Mwanza on 9th of February 2022 and that the highest value appearing in the charge sheet against him is Tshs. 25,385,000/= . He explained to the Court that based on the value of money which the applicant is charged with, the Resident Magistrate's Court of Mwanza do not have jurisdiction to grant him bail.

Mr. Dishon informed the Court that the applicant has reliable sureties and ready to abide to bail conditions. He added that should the court decide to grant bail to the applicant, he has no intentions of interfering investigation and either way, the said investigation is complete.

In reply, Ms. Alex, did not object the application. She submitted that the offences which the applicant is charged with are bailable under section 29(4)(d) of Cap 200. She added that if bail is granted, the court should however, set conditions which will ensure the applicant attends to the court without failure until the case against him is finalized.

I have considered the applicant's affidavit supporting the application, submissions by both parties and the fact that the offences which the applicant stand charged with are bailable.

The value of Tshs. 25,385,000 exceeds the threshold of Tshs. 10,000,000/= which is provided for under section 29(4)(d) of Cap 200, therefore, this court has jurisdiction to hear and determine this application. I have also considered the fact that bail is a constitutional right and that this application has not been objected by the respondent. Under these circumstances, I find it appropriate to allow the application.

Abiding to the mandatory provisions of section 36(5) and (6) of Cap 200, the application for bail is hereby granted. The applicant is admitted to bail upon fulfilling the following conditions: -

1. The applicant to deposit in court, cash amounting to half of Tanzanian Shillings Twenty-Five Million Three hundred Eighty Five Thousand (**Tshs. 25,385,000**) or property/properties equivalent to half value of the said amount and the rest of the amount to be secured by execution of bond in writing.

2. The applicant has to provide two (2) sureties who are to execute a bond of Tanzanian Shillings Six Million and Four Hundred Thousand **(Tshs. 6,400,000/=) each**; and to satisfy the Court that sureties are either employees of the Government or possesses a National Identity Card issued by NIDA with permanent residence within Mwanza Region.
3. The applicant should not leave jurisdiction of the Court without prior permission from the Resident Magistrates Court of Mwanza at Mwanza.
4. The applicant shall continue to attend his case on a date and time scheduled.
5. Verification of sureties and bond documents to be executed by the Deputy Registrar.
6. The applicant should surrender his passport and any other travelling documents (if any), to the Deputy Registrar.
7. The applicant will have to report to the Office of the Regional Crimes Officer (RCO) at Mwanza Regional Head Office of Police on each last working day of the month starting from February 2022.


In order to ensure compliance of these conditions I further make the following orders:-

- (a) A typed copy of this order and proceedings be supplied to the trial court for record purposes.
- (b) Another typed copy of this order and proceedings be supplied to the RCO for Monitoring reporting condition.

It is so ordered.

DATED at Mwanza this 17th day of February, 2022.




L. J. ITEMBA
JUDGE
17/2/2022