

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF MUSOMA)
AT MUSOMA**

Misc. CRIMINAL ECONOMIC APPLICATION No. 13 of 2022

(Arising from the District Court of Bunda at Bunda in Economic Case No. 14 of 2021)

LEMI DHANDI @ MAKINDI ----- APPLICANT

Versus

THE REPUBLIC ----- RESPONDENT

RULING

03.03.2022 & 04.03.2022

Mtulya, F.H., J.:

Ms. Lemi Dhandi @ Makindi, (the applicant) has registered the present application seeking for bail in this court pending trial in **Economic Crimes Case No. 14 of 2021** (the case) filed at the **District Court of Bunda at Bunda** based in Bunda (the district court). The applicant is charged for the offence of unlawful possession of government trophies contrary to section 86 (1) & 2 (b) (ii) & unlawful possession of weapons in certain circumstances contrary to section 103 of the **Wildlife Conservation Act** [Cap. 283 R. E. 2002] as amended in 2016, read together with paragraph 14 of the First Schedule to, and sections 57 (1) & 60 (2) of the **Economic and Organized Crimes Control Act** [Cap. 200 R.E 2019] (the Act).

The value of total amount of money involved in the offences, as displayed in the Charge Sheet, is Tanzanian Shillings Thirteen Million One Thirty Eight Thousand Seven Hundred and Fifty (13, 138, 750/=Tshs). The application was scheduled for hearing in this court on the 28th of February 2022 and the applicant argued the application herself without any legal representation through teleconference conversation whereas the Republic enjoyed legal services of Mr. Yesse Temba, learned State Attorney.

When the applicant was invited to submit and argue for the application, she briefly stated that she is a widow and wants to enjoy freedom of movement to attend her children who are currently attending school without parents. Being aware of the provisions enshrined under article 13 (6) (b) of the **Constitution of the United Republic of Tanzania** [Cap. 2 R.E. 2002] (the Constitution) and sections 29 (4) (d) & 36 (5) & (6) of the Act and section 148 (5) (e) of the **Criminal Procedure Act** [Cap. 20 R.E. 2019], Mr. Temba did not protest the application and argued that bail may be granted subject to the conditions set out in section 36 of the Act.

I perused the provisions of the law in section 29 (4) (d) of the Act and found out that this court is empowered to entertain bail applications pending determination of economic cases registered for determination in subordinate courts of Resident Magistrates and

District Courts, provided the value of property involved in the offence charged is Tanzanian Shillings Ten Million or more. The present application, involves the properties valued more than Tanzanian Shillings Ten Million hence within the mandate of this court. On the other hand, section 36 (5) (a)-(b) of the Act provides for mandatory bail conditions whereas section 36 (6) (a)-(c) of the Act regulates discretionary mandate of this court in determining bail conditions.

It is fortunate that there is precedent of this court in **Salum Abeid Mbaya & Ten Others v. Republic**, Consolidate Misc. Economic Applications Nos. 68 & 69 of 2019, which interpreted the provisions of section 36 (5) of the Act hence this court cannot not entertain any interpolations for the sake of certainty and predictability of the decisions delivered in this court. The conditions set in the precedent may be altered for interest of justice or when it appears right to insert any other conditions (see: **Director of Public Prosecutions v. Aneth John Makame**, Criminal Appeal No. 127 of 2018 and **Edward D. Kambuga & Another v. Republic** [1990] TLR 84]).

Having visited the said provisions of the law and practice of this court and Court of Appeal on the subject, I am convinced to grant the application under the conditions provided in sections 36 (5) (a)-(d) & (6) (a)-(c) of the Act and practice in **Salum Abeid**

Mbaya & Ten Others v. Republic (supra). Therefore, I hereby admit the applicant to bail pending his trial and he will be released upon fulfilling the following listed conditions. The applicant shall:

1. Surrender his passport or any other travelling documents, if any, to the Deputy Registrar of this Registry;
2. Report to the Deputy Registrar of this Registry once in every last Monday of a month and sign a specific register, if need be;
3. Not to travel out of Mara Region without prior written leave of the Deputy Registrar of this Registry;
4. Have two sureties, and one must be employee of the government, local government, government agency, or any other organization recognized under the law and must be resident within the United Republic of Tanzania and both sureties must enter their presence before Deputy Registrar of this court on the day of applicant's release;
5. Submit to the Deputy Registrar of this court letters and certified copies of identity cards from the two sureties' employers as proof of their employment;

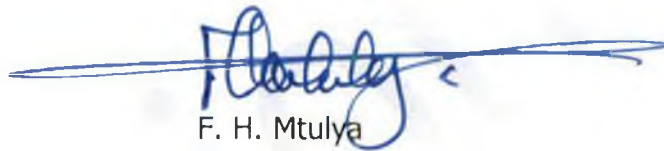
6. Submit to the Deputy Registrar of this court introduction letters of sureties from their respective street or village chairman;
7. Enter appearance in court on every date when the case is scheduled for mention, hearing or any other order or direction of the court;
8. Applicant's sureties shall undertake to make sure that the applicant is available and enter attendance in court whenever required;
9. The applicant shall deposit cash in sum Tanzanian Shillings Six Million (6,000,000/=) or in alternative deposit immovable or approved property equivalent to Tanzanian Shillings Six Million (6,000,000/=); In case the Applicant decides to deposit immovable or approved property, she shall deposit either title deed supported by Valuation Report from the Government Valuer or documents justifying the approved property from the appropriate authority displaying the same amount of money; and
10. Each of the Applicant's sureties must sign a bond of sum of Tanzanian Shillings Three Million (3,000,000/=) as a security

for appearance of the applicant at Bunda District Court at Bunda.

The above ordered bail conditions shall be supervised and sureties certified by the Deputy Registrar of this court. This Application is granted without any order as to the costs. Each party shall bear its own costs.

Ordered accordingly.

Right of appeal explained.

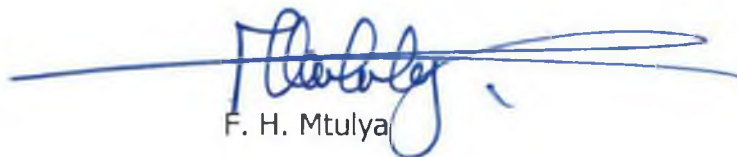
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F. H. Mtulya

Judge

04.03.2022

This Ruling was delivered in Chambers under the seal of this court in the presence of the learned State Attorney, Mr. Yesse Temba and in the presence of the applicant, Ms. Lemi Dhandi @ Makindi through teleconference.

A handwritten signature in blue ink, appearing to read 'F. H. Mtulya', is written over a horizontal line.

F. H. Mtulya

Judge

04.03.2022