

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

Misc. CRIMINAL ECONOMIC APPLICATION No. 6 of 2022

(Arising from the District Court of Bunda at Bunda in Economic Case No. 20 of 2021)

GANGA NTEMI @ LUTANDULA ----- APPLICANT

Versus

THE REPUBLIC ----- RESPONDENT

RULING

28.02.2021 & 01.03.2022

Mtulya, J.:

Mr. Ganga Ntemi @ Lutandula (the applicant) is seeking bail in this court pending trial in **Economic Crimes Case No. 20 of 2021** (the case) registered at the **District Court of Bunda at Bunda** based in Bunda (the economic case). The Applicant is charged with the offence of unlawful possession of weapons into the national park contrary to section 24 (1) (b) & 2 of the **National Parks Act** [Cap. 282 R.E 2019] and unlawful possession of government trophies contrary to section 86 (1) & 2 (b) (ii) 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 the total amount of money involved in the offences, as displayed in the Charge Sheet, is Tanzanian Shillings Thirty Four Million One Fifty Nine Thousand Only (34, 159, 000/=Tshs). On the 28th of February 2022, the application was scheduled for hearing in this court and the applicant hired the legal services of Mr. Emmanuel Paul Mng'arwe, learned counsel, to appear and argue the application for him whereas the Republic marshalled Ms. Agma Haule, learned State Attorney.

When the learned minds were invited to take the floor of this court to submit in favour and against the application, they had brief discussions and conversations, and generally agreed that bail pending economic cases is constitutional right enshrined under article 13 (6) (b) of the **Constitution of the United Republic of Tanzania** [Cap. 2 R.E. 2002] (the Constitution) and may be considered under sections 29 (4) (d) and 36 (5) & (6) of the Act and conditions set in due regard of section 36 (5) (a)-(b) of the Act and section 148 (5) (e) of the **Criminal Procedure Act** [Cap. 20 R.E. 2019].

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) of the Act provides for mandatory bail conditions whereas section 36 (6) 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 the 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) and (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 document, 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 a 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 Seventeen Million (17,000,000/=) or in alternative deposit immovable property equivalent to Tanzanian Shillings Seventeen Million (17,000,000/=); In case the Applicant decides to deposit immovable property, he shall deposit title deed supported by Valuation Report from the Government Valuer; and
10. Each of the Applicant's sureties must sign a bond of sum of Tanzanian Shillings Eight Million (8,000,000/=) 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.



F. H. Mtulya

Judge

01.03.2022

This Ruling was delivered in Chambers under the seal of this court in the presence of the learned State Attorney, Ms. Agma Haule and in the presence of the applicant's learned counsel Mr. Emmanuel Paul Mng'arwe through teleconference.

F. H. Mtulya

Judge

01.03.2022