

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. CRIMINAL APPLICATION NO. 41 OF 2021

(Originating from Urambo District Court in Economic Case No.21/2021)

MARIAM HAMIS ISSAAPPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date: 21/2/2022 & 21/2/2022

BAHATI SALEMA, J:

The applicant, **MARIAM HAMIS ISSA** has applied to this court under Certificates of Urgency for the following orders: -

- 1. This court be pleased to grant bail pending trial of Economic Case No. 2 of 2021 before the District Court of Urambo at Urambo.*
- 2. This court be pleased to admit the applicant to bail pending trial of Economic Case No. 2 of 2021 before the District Court of Urambo at Urambo.*
- 3. Any other relief the court deems fit to grant in this application.*

According to the chamber summons filed in this court the application which comes under section 29(4)(d) and section 36(1) of the Economic and Organized Crime Control Act, Cap. 200 [R.E 2019] supported by an affidavit of Mariam Hamis Issa, the applicant.

At the hearing of the application, the applicant was unrepresented while the respondent was represented by Mr. John Mkonyi, learned State Attorney.

The respondent conceded with the application and submitted that the applicant is the accused person in Economic Case No. 2 of 2021 before the District Court of Urambo at Urambo for the offence of unlawful possession of a government trophy. Given the value of the alleged trophy, which is USD 6,800, equivalent to TZS 13,600,000/=, it is the High Court that is vested with request jurisdiction to entertain the application for bail.

In reply, the applicant prayed for bail since she has reliable sureties who are ready to observe all bail conditions that may be set by this court.

It is a presumption of law that an accused person is presumed to be innocent until proved guilty by a competent court with competent jurisdiction and or until such accused pleads guilty to the charge voluntarily. Bail is granted to an accused person to ensure that she appears to stand trial without the necessity of her being detained in

custody in the meantime. The effect of bail is merely to release the accused from physical custody but she is still under the jurisdiction of the law and is bound to appear at the appointed time and place.

Section 29 (4) d of the Economic Crime Control Act, Cap. 200 [R.E 2019] to which this application is based vests the powers to grant bail to the High Court where the value of any property involved in the offence charged is ten million or more and section 36(1) and (5) (a) of the same Act sets the conditions to be met by the applicants for them to be eligible to be released on bail.

Upon examination of the applicant's affidavit and the concession made by the respondent. The applicant has demonstrated that she has credible and reliable sureties who will meet the conditions that will be set by the court for them to be admitted to bail.

As the applicant is charged with an economic offence, bail conditions are prescribed under Section 36(5) of the Economic and Organized Crime Control Act, Cap. 200. This provision requires the applicant to pay cash bond or submit to Court the security valued equivalent to at least half of the valued of the property or money involved. The rest value is required to be executed by bond.

Bail being a constitutional right to the applicant and basing on the applicant's averments in her affidavit, I am satisfied that the applicant has met the criteria for the grant of bail pending trial. I hereby grant

bail to the applicants upon fulfilling the following conditions as stipulated under section 36(5)(a) to (d) of the Economic and Organized Crime Control Act, Cap.200 that;

- i. The applicants should deposit in Court cash TZS. 6,800,000/= or Immovable property of equivalent value situated within Tabora Region;
- ii. The applicant shall have two credible and reliable sureties who will sign a bail bond equivalent to the respective half of the amount involved in the offence;
- iii. The applicants should have two credible and reliable sureties; with fixed abode within the jurisdiction of the trial court;
- iv. The applicants shall surrender all their traveling documents to the Deputy Registrar – Tabora;
- v. The applicants are restricted from traveling outside Tabora Region without prior written consent sought and granted by the Deputy Registrar – Tabora Region,
- vi. The applicants shall be duty-bound to appear in court on all dates that shall be scheduled by the court,
- vii. Bail conditions to be verified/ ascertained by the Magistrate at Tabora Resident Magistrates' Court assigned with the case before releasing the applicant on bail as above prescribed.

Order accordingly.

Bahati

A. BAHATI SALEMA

JUDGE

21/2/2022

Ruling delivered under my hand and seal of the court in the Chamber, this 21st day of February, 2022 in the presence of both parties.

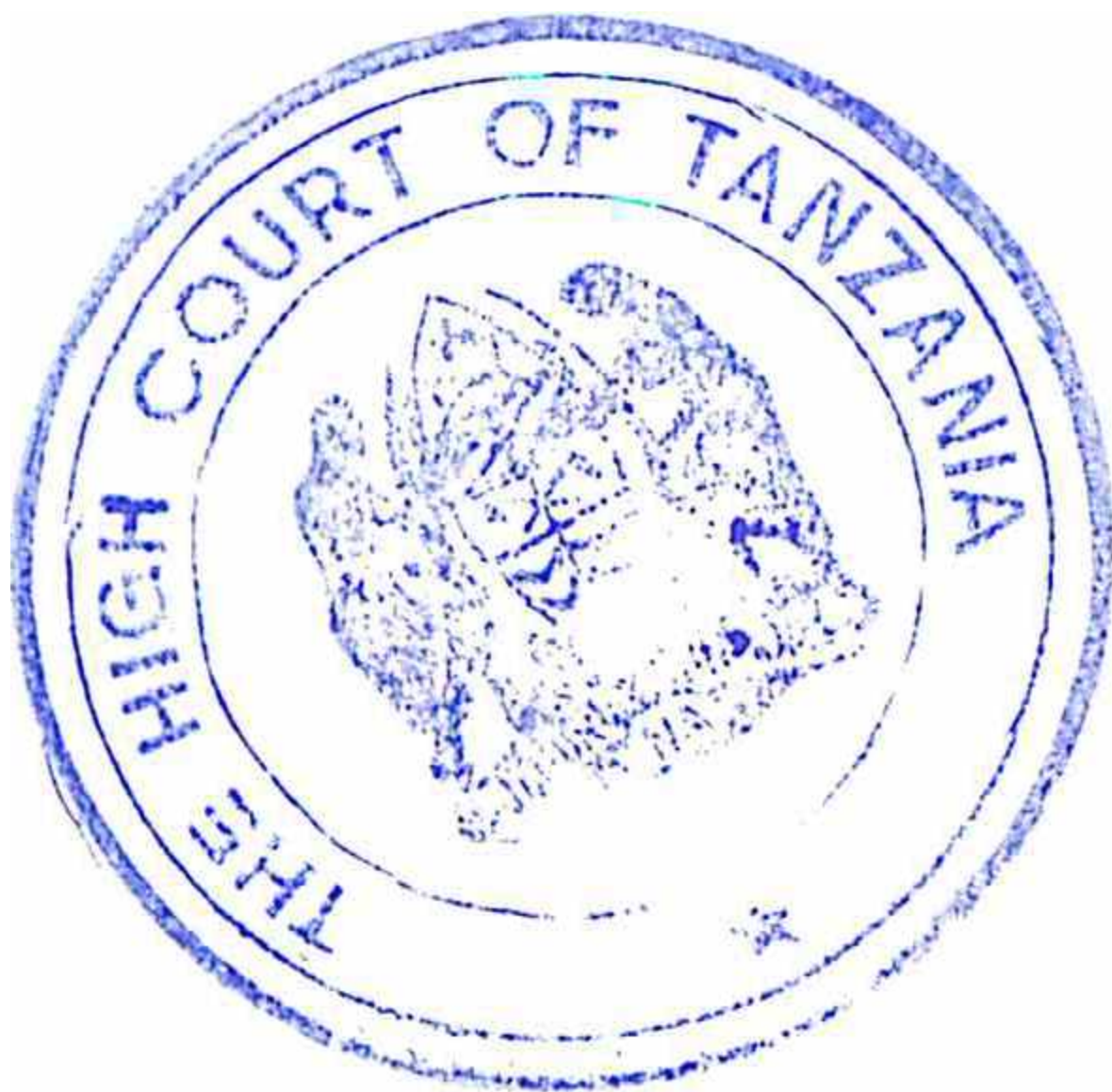
Bahati

A. BAHATI SALEMA

JUDGE

21/2/2022

Right to appeal is hereby explained.



Bahati

A. BAHATI SALEMA

JUDGE

21/2/2022