

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. CRIMINAL APPLICATION No. 30 OF 2021

*(Arising from Economic Crime Case No. 72 of 2021 pending in The
Resident Magistrates Court of Tabora)*

ISSAH S/O RAMADHAN @ MRISHO APPLICANT

VERSUS

REPUBLIC -----RESPONDENT

RULING

Date 3/2/2022 & 3/2/2022

BAHATI SALEMA, J.:

The applicant **ISSAH S/O RAMADHAN MRISHO** has applied to this court under Certificates of Urgency for the following orders: -

- 1. This Honourable Court be pleased to grant bail to the Applicant pending determination of the Economic Crime Case No. 72 of 2021 in the Resident Magistrates Court of Tabora.*

2. Any other relief the court deems fit to grant in this application.

According to the Chamber summons filed in this court the application comes under section 36 (1), 5 (a) and 29 (4) (d) of the Economic and Organized Crime Control Act, Cap. 200 [R.E 2019] supported by an affidavit of the applicant.

When the applications came for hearing, the applicant was represented by Ms.Flavia Francis, learned counsel while the Republic was represented by Mr. Rwegira Deusdedit, learned State Attorney.

The applicant's counsel adopted the affidavit to be part of the submission and submitted that since there was no counter-affidavit from the respondent, she prayed for bail. She further stated that this is an economic offence which is above ten million and that this court has jurisdiction to grant bail as the amount charged is TZS 69,300,000/= and the applicant will comply with the criteria set by the court.

In his response, the respondent submitted that although they have not filed a counter-affidavit, this court when granting bail should consider that the applicant is a peasant whose address is untraceable and that the court set criteria for him to be available when needed.

In her rejoinder, the counsel submitted that there is no evidence that the applicant can jump bail. The applicant will comply with the criteria set by this court.

Having heard from both parties, the issue for determination is whether the applicant should be released on bail pending the determination of Economic Crime Case No. 72 of 2021.

It is a presumption of law that an accused person is presumed to be innocent until proven guilty by a competent court with competent jurisdiction and or until such an accused pleads guilty to the charge voluntarily.

Bail is granted to an accused person to ensure that he appears to stand trial without the necessity of him being detained in custody in the meantime. The effect of bail is merely to release the accused from physical custody, but he 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.

In his affidavit, the applicant has demonstrated that he 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 of the Economic and Organized Crime Control Act, Cap. 200. This provision requires the applicant to pay a cash bond or submit to Court the security valued equivalent to at least half of the value of the property or money involved. The rest value is required to be executed by bond.

I am also aware that there were three accused persons involved in this case, and the total amount involved in the case is TZS. 69,300,000/=. Half of that amount is TZS. 34,650,000/= which is divided among all accused persons based on the principle stated in **Silvester Hillu Dawi and Julius S/O John Mwita**, Criminal Appeal No. 250 of 2006 (Unreported) that, has to be jointly apportioned between the three accused persons.

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

the applicant 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 applicant should deposit in Court cash TZS. 11,550,000/= 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 applicant should have two credible and reliable sureties; with fixed abode within the jurisdiction of the trial court;
- iv. The applicant shall surrender his traveling documents to the Deputy Registrar – Tabora;
- v. The applicant is restricted from traveling outside Tabora Region without prior written consent sought and granted by the Deputy Registrar – Tabora Region,
- vi. The applicant 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.



A. BAHATI. SALEMA

JUDGE

3/02/2022

Ruling delivered this 3rd day February, 2022 in the presence of both parties.



A. BAHATI SALEMA

JUDGE

3/2/2022

Right to appeal is hereby explained.



A. BAHATI SALEMA

JUDGE

3/2/2022