

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SUMBAWANGA DISTRICT REGISTRY)

AT SUMBAWANGA

MISC. CRIMINAL APPLICATION NO. 29 OF 2021

(C/O Sumbawanga DC Economic Crimes Case No. 9 of 2021)

VEDASTO S/O ABAS @ BEHEWA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

Date: 29 & 29/03/2022

Nkwabi, J.:

By chamber summons, the applicant is moving this court to grant him bail. The chamber summons is made under section 29(4) (d) and 36(1) of the Economic and Organized Crimes Control Act Cap. 200 R.E. 2002. He was arraigned before Sumbawanga District Court facing two counts in an economic crimes case number 9/2020.

In the District Court, the applicant stands charged with unlawful possession of Government Trophy contrary to section 86(1) and (2) (c) (ii) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 of the First schedule to and sections 57(1) and 60(2) of the Economic and Organized Crime Control, Act [CAP. 200 R.E. 2002, apart from another count.

The application is supported by the affidavit of the applicant. The application was not resisted by the respondent, as the respondent did not file a counter affidavit. It is mundane law that where an application is not countered through an affidavit in reply, that application is deemed to be uncontroverted, see **Martin D. Kumaliya & 117 Others v. Iron and Steel Ltd. Civil Application No. 70/18 of 2018** (CAT), (unreported):

As hinted earlier, the respondent, for obviously an inexplicable cause, filed no affidavit in reply after being served with the notice of motion. We must hasten to observe, therefore, that the absence of an affidavit in reply means that averments in the supporting affidavit are uncontroverted.

After hearing both parties, and since the respondent does not object this bail application in that the respondent merely prayed this court to consider the provisions of section 36 (1) (4)(e) and section 36(5) (a) of the Economic and Organized Crimes Control Act, with the provisions of law in my mind and without much ado, I grant the application for bail as it is a legal right of the applicant. Indeed, the trial court had no jurisdiction to entertain bail

application thus it did not grant bail to the applicant. Bail conditions are set as hereunder:

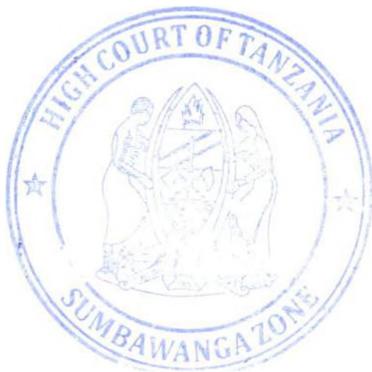
1. The applicant shall be out on bail upon depositing cash money to the tune of Tshs. 6,629,750/= equivalent to half of the value of the trophies or deposit title deed of immovable property whose value is proved through government valuer's report to be not less than T.shs 6,629,750/= equivalent to half of the value of the trophies.
2. The applicant shall have two reliable sureties who shall execute bail bond at T.shs 6,629,750/= each. Each surety shall have introductory letter from local government leader(s) of their locality where they reside.
3. Since the applicant ought to appear in the trial court, such appearance on the fixed date shall be deemed as reporting to the authority.
4. The applicant has to surrender any travel document that he possesses, if any.
5. The applicant shall not travel outside the jurisdiction of the High Court Sumbawanga Zone during the pendency of Economic crimes case the

subject of this application for bail, save with the permission of the learned presiding Magistrate.

6. Ascertainment of compliance with the bail conditions set hereinabove shall be conducted by the Deputy Registrar of the High Court.

It is so ordered.

DATED at SUMBAWANGA this 29th day of March, 2022.




J. F. Nkwabi,
JUDGE