

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
MWANZA DISTRICT REGISTRY
AT MWANZA**

CONSOLIDATED MISC. CRIMINAL APPLICATION No. 08 & 9 OF 2022

(Arising from Economic Case No. 02 of 2022 of the District Court of Sengerema)

ALLY SALIM ALLY1ST APPLICANT

RAHIMU MGIMBA.....2ND APPLICANT

CLEMENT SIMON KIHINGA.....3RD APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

15th March, 2022

TIGANGA, J.

This ruling is in respect of the application for bail filed by the applicants in two distinct applications before the same were consolidated by the order of this court dated 15th day of March 2022 to be Consolidated Misc. Criminal Application No. 08 & 09 of 2022. Initially the 1st and 2nd applicants in this application filed Misc. Criminal Application No. 08 of 2022 while the 3rd applicant filed Misc. Criminal Application No. 09 of 2022. In both applications the applicants moved the court under section 29(4) and 36(1) of the Economic and Organized Crimes Control Act [Cap 200 R.E 2019].

All three applicants stand charged in Economic Case No. 02 of 2022 before the District Court of Sengerema with a total of five counts all of them being under the Economic and Organized Crimes Control Act (supra) and the offences on which they are implicated are Abuse of office contrary to section 31 of the Prevention and Combating of Corruption Act, [Cap. 329 R.E 2019] read together with paragraph 21 of the first schedule to and section 57(1) and 60(2) of the Economic and Organized Crimes Control Act, (supra) and Occasioning loss to specified authority contrary paragraph 10(1) of the First Schedule to, and section 57(1) of the Economic and Organized Crimes Control Act, (supra).

Although there is a certificate, of the Regional Prosecution Officer conferring jurisdiction to the Subordinate Court, and the Consent of the same officer, the applicants are still held in Kasungamile Prison because the amount involved in their charge sheet and which they are accused to have occasioned loss is above Tshs. 10,000,000/= (Ten Million), as the charge shows that they have

occasioned loss of Tshs. 50,420,000/= (fifty million four hundred and twenty thousand)

The applications was supported by the affidavits affirmed by Mr. Emmanuel M. John and Scolastica Teffe both Advocate, all insisting that the offences are bailable and this court has jurisdiction to grant bail taking into account the amount involved. They also assured the court the commitment of their clients to appear before the court when their case will be called for trial and that they are ready to fulfill the bail conditions set by the court.

When this application was called for hearing, the respondent, Republic, appeared in the representation of Ms. Magreth Mwaseba - Learned State Attorney, while the 1st and 2nd applicants were represented by Mr. Masoud Mwanaupanga, and the 3rd Applicant was represented by Mr. Paul Kipeja. The learned State Attorney did not object the application. She said in her address to the Court that, as long as the offence is bailable and the court has jurisdiction to grant bail, then, the republic has no objection.

Now this Court being competent to entertain the application for bail of economic offences filed before the subordinate Courts, which involves the amount of money above ten million, and the offence being bailable in terms of section 29(4)(d) and 36(1) of the Economic and Organized Crimes Control Act, (supra) the application is hereby granted. The applicants **Ally Salim Ally, Rahimu Msimba** and **Clement Simon Kihinga**, who are also accused persons in Economic Case No. 02 of 2022, are hereby granted bail on the following conditions that, **one**, each applicant/accused be bailed out by two sureties who will be introduced by the local leaders of the area they are living at or their employers. **Two**, one of the sureties should be employed either in public service or by any reputable institution, and be so introduced by his/her employer. **Three**, each surety be ready to sign bond worth Tshs 16,807,000/= (sixteen million eight hundred and seven thousand). **Four**, furthermore, either one of surety or the accused person himself must deposit cash. Tshs. 16,807,000/= (sixteen million eight hundred and seven thousand) or in the alternative a title document of immovable property or properties worth Tshs.

16,807,000/= (sixteen million eight hundred and seven thousand).
Sureties and compliance of bail condition shall be approved by the
Deputy Registrar High Court of Tanzania, Mwanza.

It is so ordered.

DATED at **MWANZA**, this 15th day of March, 2022




J. C. TIGANGA
JUDGE