

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 12 OF 2022

(Originating from Economic Case No.2/2022, Ngorongoro District Court)

COSMAS AUGUSTINO HAULE..... APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

18/05/2022 & 18/05/2022

KAMUZORA, J.

This application was brought under the provision of section 36 (1) of the Economic and Organised Crimes Control Act Cap 200 RE 2019. The applicant is applying for bail pending hearing and determination of the Economic case pending before the subordinate court.

The applicant is charged before the District Court of Ngorongoro in Economic Case No. 2 of 2022 with two counts for the offence of Unlawful possession of Government trophy contrary to section 86 (1) and (2) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 of the 1st Schedule to and sections 57 (1) and 60 (2) of the Economic and Organised Crimes Control Act Cap 200 RE 2002 as amended by

section 16 (a) and 13 (b) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016. The second count is for the offence of unlawful transporting of trophy contrary to sections 81(1) and 86 (1) of the Wildlife Conservation Act No. 5 of 2009.

The particulars of offence reveals that the applicant was arrested while transporting 5722 live frogs valued at USD 114,440 equivalent to Tshs. 261,609,840/= the property of the Government of the United Republic of Tanzania. The applicant being charged with Economic offence to which the subordinate court lacks jurisdiction to entertain, he invoked the provision of section 36 (1) of the Economic and Organised Crimes Control Act Cap. 200 RE 2019 to seek for bail before this court. The said provision reads: -

36.-(1) "After a person is charged but before he is convicted by the Court, the Court may on its own motion or upon an application made by the accused person, subject to the following provisions of this section, admit the accused person to bail."

In his affidavit in support of the application, the applicant stated that he is a resident of Basuto Village engaging in agriculture and animal keeping. That, he is the only bread winner thus believes that if not

released on bail his family is likely to suffer. He also stated that he has reliable sureties to stand for his bail.

When the matter was called for hearing, Ms. Amina Kiango, Learned State Attorney appeared for the Respondent Republic. In the outset, Ms. Amina did not object the application. She stated that, after going through the affidavit of the applicant she discovered that the offences to which the applicant is charged are bailable offences. She consented to the prayer for bail and urged the court to be guided by the law in granting the application and direct the applicant to comply to the bail conditions.

The applicant had nothing to add but to insist on his prayer. This court upon considering the application, the affidavit in support of application and the fact that the same is not disputed by the Republic it directed itself to the legal requirements. The law is clear as stated by the learned State Attorney that, bail can be granted for the offence to which the applicant is charged. While section 36 (1) of Cap. 200 gives powers to the court to grant bail, subsection 5 of the same section directs the court on the conditions to be set in granting bail. The said provision reads;

(5) "Where the Court decides to admit an accused person to bail, it shall impose the following conditions on the bail, namely- (a) where



the offence with which the person is charged involves actual money or property whose value exceeds ten million shillings unless that person deposits cash or other property equivalent to half the amount or value of actual money or property involved and the rest is secured by execution of a bond;"

In considering the requirement of the law I hereby grant the applicant's application. Bail is granted on the following conditions: -

1. The applicant shall pay in cash half of the amount to which he is charged with which is 130,804,920/= or submit title deed/ownership document with value equivalent to that amount. The rest of the amount which is 130,804,920 shall be secured by bond.
2. The applicant shall present two sureties with identity cards and introductory letters.
3. The applicant shall ensure attendance in court at all time the case is scheduled or upon being summoned by court.

It is so ordered.

DATED at **ARUSHA** this 23rd Day of May 2022




D. C. KAMUZORA

JUDGE