

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM**

MISCELLANEOUS CRIMINAL APPLICATION NO. 111 OF 2023

(Arising from Economic case No. 28 of 2023 of the Resident Magistrate Court of Dar es Salaam at Kisutu)

ABUBAKARI MWIDA PAZI APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

21st August 2023

MKWIZU J

This is a ruling in respect of the bail application by the applicant made under section 29 (4) (d),) of Economic and Organized Crimes Control Act Cap 200 R.E. 2022 supported by the affidavit sworn by Nehemiah Geoffrey Nkoko applicant's counsel.

Mr. Nehemia Nkoko's counsel for the applicant submission was brief. He first adopted the affidavit in support of the application with a prayer to have the application granted in line with the provisions of section 36 of the EOCCA on the governing conditions for bail.

On the other hand, the Republic, represented by Gladness Senya and Salome Matunga all learned State Attorney expressed no objection to the application. They only implored the court to consider the conditions set by the law in section 36 of the EOCCA.

I have significantly gone through the application supported by affidavits and submissions from both parties. The applicant is seeking bail pending committal proceedings that are pending before Kisutu Resident Magistrate

court in Economic Case No. 28 of 2023 in which the applicant together with other accused persons is charged with eight counts to wit LEADING ORGANIZED CRIMES contrary to paragraph 4(1) of the first Schedule to read together with sections 57(1) and 60(2) of the EOCCA; UNLAWFUL DEALING IN TROPHIES and POSSESSION OF GOVERNMENT TROPHIES contrary to sections 80(1), 84(1) of the Wildlife Conservation Act No 5 of 2009 read together with paragraph 14(b) of the first schedules to and sections 57(1) and 60(2) of the EOCCA connecting the accused with trophies worth **3,285,807,600/=** and FORGERY contrary to sections 333, 335 (a) and 337 of the Penal code Cap 16 RE 2022, made under sections 29 (4) (d); section 36 (5) of the Economic and Organized Crime Control Act, Cap. 200 RE 2022 all of which are bailable offences.

It is deposed in the supporting affidavit that the applicant has reliable sureties and both the applicant and his sureties are ready and willing to abide by the bail conditions to be set by the court. These facts have remained undisputed.

Since bail is a constitutional right and having no impediment whatsoever expressly or impliedly by the respondent/Republic to the applicant's application, I am satisfied that the applicant's prayer is tenable. The only issue to determine is what should be the appropriate condition. I have considered sections 36 (5) and (6) of the EOCCA, the details in the charge sheet, and the principle of proportionality which requires the amount involved to be apportioned equally to the accused persons involved. The charge sheet provided 3,285,807,600/= as the amount involved in the charged offenses. In terms of section 36(5) of EOCCA, half of the said amount is to be deposited in court or title of an immovable property of equal value and the rest is to be secured by execution of a bond. However,

since the case involves 12 accused persons then, the amount will be allotted equally among the accused persons under the principle of proportionality explained in **Lulu Victor Kayombo and another V R.** Misc. Economic Application No 140 of 2021 (Unreported). On the premises, the applicant's bail is granted on the following conditions:

1. The applicant is to deposit cash TZS **136,908,650/=** or a Title Deed of immovable properties having similar value or more located in the Dar es Salaam Region.
2. The applicant must provide two reliable sureties to execute bonds valued at TZS. **68,454,325** each. One surety must be an employee of the Government of the United Republic of Tanzania or any reliable company.
3. The applicant should not leave the jurisdiction of the Resident Magistrate Court of Dar es Salaam at Kisutu without permission from the Resident Magistrate of Kisutu RMs court.
4. The applicant should surrender their passport, and any other traveling documents to the Resident Magistrate of Kisutu RMs court.
5. The applicant is compulsorily bound to appear in court at any time when required until the final determination of Economic case No 28 of 2023.

The Kisutu Resident Magistrate shall verify the sureties and bond documents. Order accordingly.

Dated at Dare es salaam, this 21st Day of August 2023



E. Y Mkwizu
Judge
21/8/2023