

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DAR ES SALAAM DISTRICT REGISTRY

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 315 OF 2024

(Arising from Economic Case No. 18 of 2023 at the Resident Magistrate Court of Dar es Salaam at Kisutu)

LUSUBILO KAKUSULO SAMBOAPPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

Date of last order and Ruling: 8th January 2024

MTEMBWA, J.:

Under ***section 148 (3) of the Criminal Procedure Act, Cap 20 RE 2022*** and ***section 29(4) (d), section 36 (1), (5), (6) and (7) of the Economic and Organized Crime Control Act, Cap 200, RE 2022***, the Applicant is seeking for bail pending trial of **Economic Case No. 18 of 2023** at the Resident Magistrate Court of Dar es Salaam at Kisutu. The same was brought under a Certificate of Urgency and is supported by an affidavit of Ms. Belinda Medukenya, the learned counsel.

Briefly, from the facts as revealed by the attached documents, the Applicant, together with other persons, stands charged with an economic case at the Resident Magistrate Court of Dar es salaam at Kisutu. The amount involved is more than Tanzanian shillings Ten Million, far and beyond the Jurisdiction of the trial Court to hear or determine the bail Application. While the matter remained pending, the Applicant applied before this Court for bail consideration pending hearing of the **Economic Case No. 18 of 2023**.

When this matter was called up for hearing, Mr. Cathbeth Mbilingi, the learned State Attorney appeared for the Respondent Republic while the Applicant enjoyed the service of Mr. Herman Nombo assisted by Mr. Gwakisa Sambo, both learned counsels.

Mr. Cathbeth Mbilingi, the learned State Attorney, informed this Court that the Republic has not filed the Counter affidavit for obvious reason that she doesn't intend to resist or oppose the Application. He implored this Court to consider however ***section 35 (5) and (6) of the Economic and Organized Crime Control Act*** (supra) and other bail conditions as the Court may deem just to grant, should the Application be granted.

On his part, Mr. Herman Nombo, the learned counsel for the Applicant, beseeched this Court to adopt the Chamber Summons, Affidavit and all other documents attached thereto. He added further that the Applicant owns landed properties in Dar es Salaam and Arusha. Lastly, he prayed to this Court to set bail conditions which are reasonable and affordable to the Applicant in the circumstances.

Having considered the arguments by the counsels, the question here is whether the Applicant deserves to be granted bail pending hearing of **Economic Case No. 18 of 2023** at the Resident Magistrate Court of Dar es Salaam at Kisutu. Considering the fact that the offenses to which the Applicant stands charged are bailable and considering the fact that the Republic has not resisted the Application, I see no reason not to grant it as sought. In the result, this application is granted.

I have gone through the Charge Sheet and noted that the Applicant, who is the sixth among eight accused persons, is involved in the first, tenth, eleventh and thirty-fourth counts. I will only consider the amounts specified in the first and thirty-fourth counts relating to leading organized crime and occasioning loss to the specified authority respectively, which is **Tshs.**

1,863,017,400.75/=, equal to **Tshs. 232,877,175.093/=** if divided to all eight accused persons.

In the event, in view of ***sections 36 (5) (a) (b), (c), (d) and 36 (6) (a) of the Economic and Organized Crime Control Act (supra)***, bail is granted subject to the following conditions.



- (1) The Applicant shall deposit to this Court the sum of **Tshs. 116,438,587.5/=** OR deposit to this Court the Title Deed (s) of the immovable property (ies) valued at or worth of **Tshs. 116,438,587.5/=**. This has been arrived at in view of ***section 36 (5) (a) of the Economic and Organized Crime Control Act (supra)***
- (2) The Applicant shall in addition, execute a bail bond of **Tshs. 116,438,587.5/=**.
- (3) The Applicant is ordered to report to Dar es Salaam Central Police Station at the end of every month.
- (4) The Applicant is ordered to surrender all of his travelling documents including passport.
- (5) The Applicant shall have two reliable sureties with fixed place of abode in Dar es Salaam Region.

(6) The two sureties in (5) above shall execute bail bond of the sum of **Tshs. 116,438,587.5/=** each.



(7) The above bail conditions shall be approved by the learned Deputy Registrar of this Court.

I order accordingly.

DATED at DAR ES SALAAM this 8th January 2024.

 
H.S. MTEMBWA
JUDGE

Ruling is delivered in the presence of Mr. Cathbeth Mbilingi, the learned State Attorney for the Republic and Mr. Herman Nombo assisted by Mr. Gwakisa Sambo, both learned counsels for the Applicant.

 
H.S. MTEMBWA
JUDGE