

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
THE CORRUPTION AND ECONOMIC CRIMES DIVISION  
AT DAR ES SALAAM REGISTRY**

**MISC. ECONOMIC CAUSE NO. 40 OF 2017**

(Originating from Economic Crime Case No. 4/2017 of Ilala District Court)

<b>1. FAUSTA GAITAN LUMOSO</b> <b>2. GAITAN THOMAS LUMOSO</b> <b>3. SAID MOHAMED LIWACHA</b> <b>4. ISSA SULEIMAN LEONARD</b>	}	..... <b>APPLICANTS</b>
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VERSUS

**THE REPUBLIC ..... RESPONDENT**

**RULING**

**03/11 & 6/11/2017**

**Matogolo, J.**

The four applicants namely Fausta Gaitau Lumoso, Gaitan Thomas Lumoso, said Mohamed Liwacha and Issa Suleiman Leonard were arraigned before the district court of Ilala charged with one count of trafficking in narcotic drugs c/s 15(1)(b) of the Drugs Control and Enforcement Act, No.5 of 2015 read together with paragraph 23 of the first schedule to the Economic and organized crime control Act [Cap.200 R.E.2002] as amended by written Laws (miscellaneous Amendment) Act No.3/2016.

It was alleged that on 29<sup>th</sup> day of August, 2017 at Dar es salaam post area within Ilala district Dar es salaam region, the applicant did traffic in

narcotic drugs namely cannabis sativa commonly known as "bhangi" weighing 27-09 kilograms.

The applicants filed this application for bail through their advocate, Mr. Egidi S. Mkoba.

The application is by chamber summons made under S.29(4) (d) and S.36(1) of the Economic and organized crime control Act, [Cap.200 R.E.2002]. It is supported by the affidavits separately deposed by each applicant.

The respondent was served with the chamber summons, and on 03/11/2017 when the parties appeared before this court, Mr. Majigo learned State Attorney informed this court that by the nature of the case the applicants are facing, they do not intend to file counter-affidavit. He said the offence the applicants stand charged is bailable offence and they do not object for the applicants to be granted bail only that in granting them bail, this court has to impose conditions which would enable the applicants to continue to attend in court. On his part Mr. Egidi Mkoba learned advocate who represents the applicants, urged this court to grant bail to the applicants, as they would abide to the bail conditions which this court may prescribe.

Having heard from Mr. Majigo learned State Attorney and Mr. Egidi Mkoba learned advocate for the applicants in their respective submissions, it is important first to look at the application itself as to its correctness or otherwise. The chamber summons was made under S.29(4) (d) and S.36(1) of the Economic and organized crime control Act, [Cap.200

R.E.2002]. This is basically the enabling provisions but only that the learned advocate for the applicants did not indicate the amendment Act, No.3 of 2016 in which section 3 confers jurisdiction to this court for corruption and economic offences, and Section 8 amended Section 3 of Cap.200. It is therefore advisable to the applicants' advocate that Act No.3/2016 was supposed to be cited for proper citation of enabling provisions. However that omission does not render the application defective. The application is supported by the applicant's affidavits in which they disclosed the reasons for their application. I have gone through them.

It is alleged in the charge sheet annexed to the chamber summons that the applicants were found trafficking in narcotic drugs that bhangis weighing 27.09 kgs. This offence, due to the weight, and type of narcotic drugs involved, according to section 29(1) of the Drugs Control and Enforcement Act is bailable.

It is unfortunately, and this was designed that its value is not disclosed to enable this court estimate the conditions for bail in monetary term. However as the offence is bailable one, and there is no any ground or reason advanced warranting denying the applicants bail, this court grant the application.

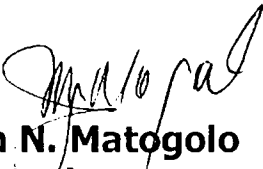
The applicants may be released on bail upon fulfilling the following conditions:

1. Each applicant has to execute bail bond in the sum of Tshs. 10,000,000/-

2. Each applicant shall produce two reliable sureties, who each separately has to execute a bond in the sum of Tshs. 10,000,000/=. At least one of the sureties must be Government employee or employed in a recognized private entity.
3. The sureties must possess letters of identification from their employer and the ward executive officers for employees and non-employees respectively.
4. The sureties must have fixed abode within Dar es Salaam region and must have a proof to that effect.
5. The applicants should not leave Dar es salaam region without prior permission from the Resident Magistrate incharge of Ilala District court.
6. The applicants have to surrender to the RCO Ilala their pass ports and/or any other travelling document.
7. The applicants must attend in court on every date their case is scheduled.
8. The Resident Magistrate incharge Ilala has to approve the sureties and bail documents before the applicants are released on bail

Order accordingly.



  
**Firmin N. Matogolo**  
**Judge**  
**6/11/2017**