

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

MISCELLANEOUS ECONOMIC CAUSE NO. 17 OF 2018

(Originating from Economic Crime case No.21/2018 of Kisutu RM's Court)

1. JUMANNE BAKARI @ SALUM

2. MATHEW MAZIKU EMMANUEL @ MUYONGE

3. JUMA MOHAMED MATAKA @ DAWESHI

4. NAZAR TAHRALI PATEL

5. JAFFER KILIMBE MWAKIBETE

6. MARIA MWALIKAKA @ SAMILA

APPLICANTS

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Date: 23/04/2018

Matogolo, J.

The applicants in this application namely Jumanne Bakari @ Salum, Mathew Maziku Emmanuel @ Mnyonge, Juma Mohamed Mataa @ Daweshi, Mazav Tahrali Patel Jaffer Kilimbe Mwakibete and Maria Mwalikaka @ Samila^{1st}, ^{2nd}, ^{3rd}, ^{4th}, ^{5th}, and ^{6th} applicants respectively were arraigned in the Court of Resident Magistrate of Dar es Salaam at Kisutu in Economic Case no.21/2018 charged with three counts.

The first count is preferred against the ^{1st}, ^{2nd}, and ^{3rd} applicants that is leading organized crime contrary to paragraph 4(d)(1)© of the First

schedule to, and sections 57(1) and 60(2) of the Economic and organized crime control Act, [Cap.200 R.E.2002] as amended.

In the second count which was preferred against the 1st, 2nd and 3rd applicants they are charged with unlawful possession of explosives contrary to Section 3(1)(2) and (2)(1) of the explosive Act [Cap.45] R.E.2002. It is alleged that on 26th March, 2018 at Boko Mwembetogwa area within Kinondoni District DSM region, the three were found in possession of explosive substances 450, kgs of Ammonium Nitrate and 1 roller of detonators wire valued at Tshs. 3,000,000/= without approval by commissioner for mines to be used in mainland Tanzania.

The third count was preferred against the 4th, 5th and 6th applicants, which is unlawful dealing in explosives c/s 3(1)(2) and (2)(1) of the explosive Act, [Cap.45 R.E.2002] It is alleged that they were found dealing with explosive substances to wit 628 bags of prilled porous ammonium nitrate each containing 50 kgs and valued at Tshs. 78,500,000/= without the approval by commissioner for mines to be used in Mainland Tanzania.

The applicants have come to this Court with their application for bail pending trial in Economic crime Case No.21/2018.

The application is by chamber summons made under Section 29(4)(d) and Section 36(1) of the Economic and organized crime control Act[Cap.200 R.E. 2002] as amended by Act No.3/2016. The same is accompanied by an affidavit taken by Mr. Gideon Phares Opanda an advocate for the applicants.

The chamber summons and accompanying affidavit was served to the respondent who opted not to file counter-affidavit.

The matter came for mention today the 23rd April 2018. The applicants are represented by Mr. Jamhuri Johnson and Mr. Gideon Phares Opanda learned advocates. Mr. Vitalis Timon learned principal State Attorney

appeared for the respondent's Republic. Mr. Vitalis outrightly informed this Court that they have no intention to object bail to the applicants and that this Court can grant them bail. On his part Mr. Jamhuri Johnson learned advocate prayed to this Court to grant bail to the applicants.

That being the position therefore, and provided that the charged offences are bailable, and as this Court is properly moved according to the provision used, I grant the application.

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

1. As the value of the property involved exceeds Tshs. 10 million, the applicants have to pay cash deposit in Court equal to half of the value of the property involved. The applicants are charged in two categories. The first category involves the 1st, 2nd and 3rd applicants and the value of property involved is 18,000,000/=. The 1st, 2nd and 3rd applicants have to pay cash deposit of Tshs. 9,000,000/= which is to be divided by three applicants under the principle of sharing. So each applicant has to deposit Tshs. 3,000,000/=.

For the 4th, 5th, and 6th applicants, the value of property involved in the charge is 78,000,000/=. So the applicants have to pay cash deposit of 39,000,000/= divided to three applicants, 4th 5th and 6th applicant. Each applicant shall pay cash deposit of Tshs. 13,000,000/=.

Alternatively

The applicants have to deposit Title deeds of immovable property of value not less than the amount mentioned above for each applicant to pay. The immovable property must be free from any encumbrances whatever, and must have approval by the Registrar of Titles or any other officer on that behalf. And must be accompanied by a valuation

report from the Government valuer. If the immovable property is not registered, must have evidence from the local authorities.

2. Each Applicant must produce two reliable sureties, and each surety must sign bond of Tshs. 5,000,000/=.
3. The applicants should not leave Dar es Salaam Region without permission from the Resident Magistrate incharge of RM's Court Kisutu
4. The applicants shall continue to attend at their case at the Court of Resident Magistrate Kisutu on every scheduled date without fail.
5. The applicants have to Report to the Central Police Station once in a month on Friday of the second week.
6. The Resident magistrate incharge of the Court of Resident magistrate Kisutu shall approve the sureties and all bail documents before the applicants are released on bail.

Ordered accordingly.




F.N. Matogolo
Judge
17/04/2018