

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

MISC. ECONOMIC CAUSE NO. 36 OF 2018

(Arising from Economic Crime Case No. 50 of 2018 in the Resident Magistrates Court of Dar es Salaam Region at Kisutu)

MERCY STANFORD SEMWENDA

VERSUS

REPUBLIC

RULING

20/8 & 21/8/2018

Korosso, J.

Mercy Stanford Semwenda, the applicant through chamber summons and a supporting affidavit sworn by herself, filed an application to this Court under a certificate of urgency. The application sought for the applicant to be granted bail pending trial of Economic Crime Case No. 50 of 2018, for which the applicant is an accused, pending at Resident Magistrate Court of Dar es Salaam Region at Kisutu. Another relief sought was for any other remedy the Court may deem fit to grant. The application has been made under section 29(4)(d); Section 36(1) of the Economic and Organized Crimes Control Act, Cap 200 RE 2002 (EOCCA).

During hearing of the matter, the learned counsel for the applicant, Mr. Kenneth Mganga, prayed that the Court adopt the supporting affidavit, so that it becomes part of their submissions. The

counsel also alluded to the fact that the applicant was an employee of Tanzania Telecommunications Company Limited (TTCL), and that she faces charges expounded in a copy of a charge sheet an appendage to the affidavit, although not referred to in any of the paragraphs in the affidavit.

The applicant was not present during the hearing of the application being represented by Mr. Kenneth Maganga, Learned Advocate. The counsel submitted on the charges facing the applicant and conceded to the jurisdiction of this Court to entertain and determine the application. Stating further to the fact that grant of bail to the application lies in the discretion of the Court. It was also submitted by the applicants that the charges for which the applicants faces and are pending at RM's Court Kisutu are bailable and that the Director of Public Prosecution (DPP) has not in any way objected to the application it be by way of a certificate objecting to grant of bail or via the counter affidavit filed by the respondents and which is part of Court records. The applicants counsel submitted that the Court in exercising its discretion if and when it grants bail, prayed that the conditions set should be lenient to allow the applicant to execute them. The applicants also did not register any rejoinder after the submissions by the respondents counsel.

On the part of the respondents, who were represented by two learned State Attorneys, Ms. Elizabeth Mkunde and Mr. Candid Nasua, at the outset prayed that the Court adopt the counter affidavit filed. Ms. Elizabeth Mkunde, Learned State Attorney did not dispute

the charges for which the applicant faces and the pending case at the RM's Court Kisumu as alluded to by the applicants affidavit and oral submissions of the applicant's counsel and to the fact that the offences are bailable. The respondents conceded to the fact that they have not registered any objection to the application, with the understanding they asserted that bail is a right of accused persons. The respondents did not quarrel with the assertion that this Court is vested with jurisdiction to hear and determine the application and that granting bail lies within the discretion of this Court. The respondent's prayer was for the Court when considering whether or not to grant bail and the conditions to set if it grants bail, to be guided by the provisions of section 36(5) and 36(6) of the EOCCA.

In context, this Court having assessed the evidence and submissions before it, first there being no dispute, finds that this Court has jurisdiction to hear and determine the application for reasons that, the application is competent, and the Court having been properly moved by the sections cited to move the Court. There is also the fact that the charges facing the applicant, include economic offences under EOCCA, and the value of the charged property against the applicant is above ten million shillings.

We have considered the fact that the charges facing the applicant are bailable, and the fact that the respondents registered no objection to the application before the Court. We have also gone through the application and the submissions and find no reason to

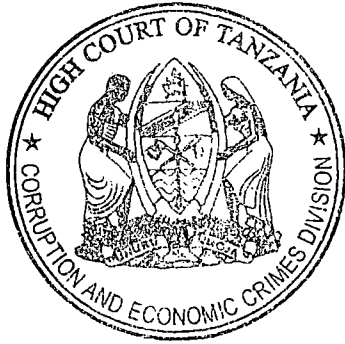
refrain from exercising our discretion and granting the prayers before the Court and submitted by the applicants.

Therefore, MERCY STANDFORD SEMWENDA is in the premises admitted to bail, pending determination of the charges she faces, that is pending determination of the case pending at the RM's Court Kisutu, subject to the following conditions:

1. The applicant to deposit cash Tshs. 9,622,200/- (taking the amount of the loss and applying the principle of sharing and there being 3 accused persons in the charges she faces) or immovable property of equivalent value to the amount ordered to be deposited.
2. The applicant to provide two reliable sureties who are to execute a bond of Tshs. 1,500,000/- each; and satisfy the Court of having residency in the area within the jurisdiction of this Court and be either employees of the Government or possess a national identify card issued by NIDA.
3. The applicant not to leave the jurisdiction of this Court without permission from the Resident Magistrate, Resident Magistrate's Court of Dar es Salaam at Kisutu.
4. The applicant to surrender their passport and any other travelling documents to the Resident Magistrate, Resident Magistrate's Court of Dar es Salaam at Kisutu.
5. The Applicant to Report to the Regional Crimes Officer Dar es Salaam according to a schedule to be prescribed by the Regional Crimes officer Dar es Salaam.

6. Verification of the sureties and bond documents shall be executed by a Resident Magistrate, Resident Magistrate's Court of Dar es Salaam at Kisutu.

Ordered.



Winfrida B. Korosso

Judge

21st August 2018