

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

MISC. ECONOMIC CAUSE NO. 58 OF 2018

(Arising out of Economic Crimes Case No. 05 of 2018 of the District
Court of Rufiji at Utete)

- 1. SOPHIA D/O HEMED CHOBO**
- 2. KASSIM S/O ABDALLAH KITAMBULILO**
- 3. OMARY S/O JUMA MOMBOKA**
- 4. SAID S/O HASHIMU MKUNGA**
- 5. MAULID S/O HAMISI MKOKWA**
- 6. JUMA S/O YUSUPH SEPPE**

.....**APPLICANTS**

Versus

THE REPUBLIC**RESPONDENT**

RULING

Date of last Order: 30/10/2018

Date of Ruling: 31/10/2018

Mashaka J.

Before the Court is an application for bail filed by the above-named applicants by way of chamber summons pursuant to section 29(4)(d) and 36(1) of the Economic and Organised Crime Control Act (herein referred to as the EOCCA), Cap 200 R.E 2002 as amended by Act No. 3 of 2016. The chamber summons is supported by affidavit sworn by Said Ally Said, Advocate for the applicants. The applicants were presented by Mr. Said Ally,

Advocate and the respondent Republic was represented by Ms. Narindwa Sekimanga, State Attorney assisted by Mr. Candid Nasua, State Attorney.

In support of application, Learned Counsel Ally for the applicants submitted that this application is made under Section 29(4)(d) and Section 36(1) of the EOCCA, Cap 200 R.E 2002 as amended by Act No. 3 of 2016 and prayed to adopt the contents of affidavit to form part of his submission.

The applicants are charged with 4 counts, namely conspiracy to commit an offence, unlawful destruction of wild plants and unlawful possession of forest produce. That the applicants are Tanzanians, innocent and have no previous criminal records. The offences committed are bailable and this Hon. Court has jurisdiction to grant bail. In the circumstances, therefore Learned Counsel prayed to this Court to grant bail to the applicants pending determination of Economic Crime Case No. 5 of 2018 which is still at the District Court of Rufiji at Utete.

In a short to the point reply, Learned State Attorney for the respondent prayed to the Hon. Court to adopt counter affidavit as part of their submission, had no objection to this bail application and prayed to the Hon. Court to refer the provisions of Section 36(5) of the EOCCA, Cap 200 R.E 2002 when granting bail to the applicants.

There was no rejoinder by Learned Counsel Ally for the applicants.

Having considered the submissions by both parties before the Court, and the fact that the application has conferred jurisdiction to this Court to determine the application, also the fact that the involved property is above

ten million shillings therefore undisputed on the jurisdiction of this Court to entertain this application for bail. I am also satisfied the application before the Court is competent having regard to the cited provisions to move this Court that is section 29(4)(d) and 36(1) of the EOCCA, Cap 200 RE 2002.

Furthermore, the offences charged against the applicants are bailable. It is also a basic principle that bail is a right as observed in the case of **HASSAN OTHMAN HASSAN@ HASANOO vs REPUBLIC, Criminal Appeal No. 193 of 2014** that, "*..guided by the principle that an accused person is presumed innocent until proved guilty and the purpose of granting bail to an accused person is to let him enjoy his freedom so long as he does not default appearances in court when so required until his rights are determined in the criminal case...*" Also, in another case of **Tito Douglas Lyimo vs Republic (1979) LRT 55**, the court held that "*bail is a right rather than a privilege unless the court is convinced that to grant, will defeat the ends of justice as a failure of the accused person to appear before the court to stand his trial*". This right may only be denied where there are justifiable reasons to do so but this Court has not been availed any reason warranting refusal of bail to the applicants.

Consequently, the applicants **SOPHIA HEMED CHOBO, KASSIMU ABDALLAH KITAMBULILO, OMARY JUMA MOMBOKA, SAID HASHIMU MKUNGA, MAULID HAMISI MKOKWA** and **JUMA YUSUPH SEPPE** are hereby admitted to bail subject to fulfilling the following conditions:

1. Each applicant must deposit in cash Tshs **3,339,981/00** which is half of Tshs. 40,079,779/- and then divided among the 6 applicants. **Alternatively**, the applicant to deposit title deed of any immovable

property of value not less than **Tshs. 3,339,981/00**. The immovable property must be free from any encumbrances and the title deed shall be approved by the Registrar of Titles or any other recognized person acting on behalf. If the property has no title deed, then shall have approval from the local authorities of the place where the property is located.

2. Each applicant must provide two reliable sureties who are to execute a bond of Tshs. 7,000,000/- each. One of the two sureties must be employed in the service of the Government of United Republic of Tanzania or private institution and the other must be a reputable person in the society.
3. The applicants not to leave the jurisdiction of this Court without permission from the Resident Magistrate in Charge of the District Court of Rufiji at Utete.
4. If the applicants are in possession of any travelling documents including passports, must surrender them all travelling documents including passports to the OC CID of Rufiji Police Station, if in possession.
5. The applicants to report once every month to the OC CID of Rufiji Police Station or upon a schedule provided by the said OC CID.
6. The applicants should appear before the court on the specified date and time as scheduled by the Resident Magistrate of the District Court of Rufiji at Utete.

7. Verification of sureties and bond documents for the applicants shall be approved by the Resident Magistrate in Charge of the District Court of Rufiji at Utete, before the applicants are released on bail.

It is so ordered.



L.L. Mashaka

JUDGE

31/10/2018