

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

MISC. ECONOMIC CAUSE NO. 61 OF 2018
(Arising from Economic Crime Case No. 6 of 2018, District Court of
Morogoro at Morogoro)

**1. NOEL CHIMWAGA }
2. NOVATUS DIONIS }APPLICANTS**

VERSUS

REPUBLIC.....RESPONDENT

RULING

Date of last order 16/11/2018

Date of Ruling 21/11/2018

Korosso, J.

This application before the Court for Ruling, is one that is filed by the applicants Noel Chimwaga (1st applicant) and Novatus Dionis (2nd applicant), pursuant to section 3(3)(b), 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002 as amended. The application is supported by an affidavit sworn by Tumaini Mfinanga, an advocate stated to be authorized to represent the applicants as per the averments therein. The relief sought is that the applicants be admitted to bail pending trial and determination of Economic Crime Case No. 76 of 2018, pending at the Morogoro District Court.

On the date of hearing, the 1st and 2nd applicants did not appear and nowhere in the application did they stated they wanted to appear, and they were represented by the Mr. Tumaini Mfinanga, learned Advocate. The counsel for the applicants, on the date of hearing played that the Court adopt the supporting affidavit so that it forms part of the submissions for the applicants.

On the part of the respondents, who were represented by Mr. Kikula, learned State Attorney, upon entering appearance, apprised the Court that, they have no intention to file counter affidavit and that they did not object to the application and the applicants' prayers before the Court. The respondents, praying that the Court proceed with hearing and determination of the application.

The applicants counsel thereafter submitted their appreciation for the position taken by the respondents, that is, not filing any objection and prayed that consideration should be on the prayers sought, grounded on the contents of the supporting affidavit, and also that the Court upon grant of bail to the applicants consider the financial circumstances obtaining for the applicants, which will not render it possible for the applicants to deposit half the amount within the confines of section 35(5)(a) of the Economic and Organized Crimes Control Act, Cap 200 RE 2002 as amended, during consideration of conditions to impose. The applicants counsel submitted further that, the Court should also exercise leniency when imposing conditions for bail. The applicants finalized their submissions praying that the Court grant bail to the applicants within the confines of the contents of the application.

The Court having heard oral submissions from the counsels for the applicants and respondents, and also examined the affidavital evidence on record, delves in decision making, starting by consideration of the competency of the application and the jurisdiction of the Court to entertain the application. The Court finds that the provisions cited to move the Court to hear and determine the matter are proper, and thus the Court cannot arrive at any other finding but that the application is competent.

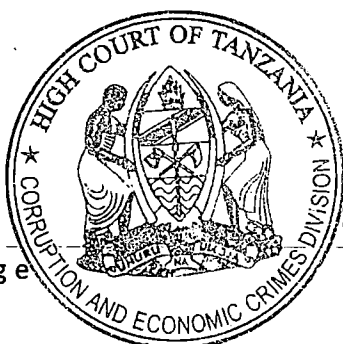
With regard to jurisdiction, the Court is satisfied that, in view of the pending case for which the applicants face at Morogoro District court, that is Economic Crime Case No. 76 of 2018, and on the first count, it relates to charges of Interfering with Necessary Service, contrary to Paragraph 20(1), 2(b) and 3(e) of the First Schedule to and section 57(1) and 60(2) of the Economic and Organized Crime Control Act, Cap 200 RE 2002 and therefore an economic offence. There is also the fact that the said case is yet to undergo committal proceedings and the value of the charged property being 245,700,000/- and is beyond ten million shillings. The said facts without doubt renders this Court with jurisdiction to hear and determine the application.

There is also another fact that the offences charged against the applicants are bailable, and that the respondents have not registered any objection to grant of bail to the applicants. Therefore, after considering all these facts as stated hereinabove, we find nothing to refrain this Court, to grant the prayers sought by the applicants in the application. In the premises, NOEL CHIMWAGA (1st applicant) and

NOVATUS DIONIS (2nd applicant) are Admitted to Bail as prayed subject to the following conditions:

1. Pursuant to Section 35(6)(a) of the Economic and Organized Crime Control Act, Cap 200 RE 2002, each applicant to deposit cash Tshs. 40,950,000/- (considering the value of the property charged and the fact that there are 3 accused persons in the pending charges against the applicants) or immovable property of equal value to the amount ordered to be deposited.
2. Each applicant to provide two reliable sureties who are to execute a bond of Tshs. 3,000,000/- each and satisfy the Court on having residency in the area within the jurisdiction of this Court. The sureties have to be either employees of the Government or possess a national identify card issued by NIDA.
3. The applicants are not to leave the jurisdiction of this Court without permission from the Resident Magistrate, District Court of Morogoro at Morogoro.
4. The applicant to surrender their passport and any other travelling documents to the Resident Magistrate, District Court of Morogoro at Morogoro.
5. The applicant to Report to the Regional Crimes Officer Morogoro according to a schedule to be prescribed by the RCO- Morogoro.
6. Verification of the sureties and bond documents shall be executed by the Resident Magistrate, District Court of Morogoro at Morogoro

Ordered.



Winfrida B. Korosso
Judge

21st November 2018