

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. 33 OF 2018
(Originating from Economic Crime Case 18/2017 of Kisutu RMS court)

1. MOHAMED ISMAIL SUED 2. MARTINE ROBERT WILLIAM 3. FRANK IGNAS MASANGULA	} APPLICANTS
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VERSUS

THE REPUBLIC..... RESPONDENT

Date of last Order: - 30/7/2018

Date of Ruling: - 30/7/2018

R U L I N G

W.B. KOROSSO, J

This ruling emanates from an application for bail made by way of chamber summons pursuant to Section 29(4) (d) and section 36(1) of the Economic and Organized Crime Control Act, [CAP 200 R.E, 2002]. The applicants namely Mohamed Ismail Sued, Martine Robert William and Frank Ignas Masangula, first, second and third applicants respectively prayed for this court to admit them for

bail and impose conditions the court may deem fit, pending determination of Economic case No. 18 of 2017 at the Resident Magistrate's Court of Dar es salaam at Kisutu. The application is supported by joint affidavit affirmed and sworn respectively by the applicants.

It on evidence as provided by the affidavit supporting the application, that the applicants were arraigned in the Resident Magistrate Court of Dar es salaam at Kisutu and charged with two counts; **first count**, Damaging the property used for the purpose of providing necessary service contrary to paragraph 20(1) and (2) (a) of the First Schedule to and Section 57(1) and 60(2) of the Economic and Organised Crime Control Act.[CAP 200 R.E 2002]. **Second count**, occasioning loss to a specified Authority contrary to Paragraph 10(1) of the first schedule to section 57(1) and 60(2) of the Economic and Organised Crimes Act [CAP 200 RE 2002].

On the date of hearing all the applicants appeared in person while the Respondent Republic was represented by Mr. Ngulla Faraji, Learned State Attorney. The applicants' submissions were the prayer that their joint affidavit to form part of their submissions and that the court to grant them bail arguing that bail is their right.

In response the learned State Attorney submitted that having gone through the joint affidavit of the applicants, the respondents do not object to the prayers for bail from the applicants having regard to the fact that the charged offences are bailable according to the governing laws. The learned State Attorney contended further that when exercising its discretion in consideration of the prayers before the Court, and if the court is in case pleased and grants bail to the applicants, the Court should bear in mind the value/amount of the alleged pecuniary loss caused by the applicant to TANESCO, that is the sum of Tshs. 1,800,000,000/= (one billion

and eighty hundred million) and that orders for sureties should ensure that they are reliable to safeguard the availability of the applicants to face hearing of the case pending in the RM's Court alluded to above.

Having considered the submissions before the Court, and the fact that no counsel challenged the jurisdiction of this Court to determine the application, also the fact that the applicants face economic offences under EOCCA, and that the value of the charged property is above ten million shillings therefore there is no question on the jurisdiction of this Court to entertain the application. We are also satisfied that 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 20022.

The offence charged against the applicants as allude to by the applicants and the counsel for the respondents are bailable there being no prohibition. It is also true that bail is a right as submitted by the applicants, and this right may only be denied where there are plausible reasons such where there is justified fear that the applicants (accuseds) may abscond and jump bail and be unavailable to meet their hearing when the case is called upon for hearing. The other reasons to deny them their right is where the offence is unbailable for the safety of the accused persons.

Having considered all the issues before the Court, affidavital evidence and oral submissions from the applicants and the learned State Attorney, and the fact that the respondents do not object to grant of bail to the applicants, and the fact that the court has not been availed with any reason warranting refusal of bail to the applicants.

In the premises, the court proceeds to grant the prayers sought by the applicants, and therefore bail is granted to MOHAMED ISMAIL SUED (1st

Applicant), MARTINE ROBERT WILLIAM (2nd Applicant) and FRANK IGNAS MASANGULA (3rd applicant) subject to the conditions hereunder:

1. Subject to the principle of sharing, (there being 5 accused in the respective offence charged, each applicant to deposit cash Tshs. 180,000,000/- or immovable property of equal value.
2. Each of the applicants to provide two reliable sureties who are to execute a bond of Tshs 20,000,000/- each. One of the two sureties for each applicant must be employed in the service of the Government of United Republic of Tanzania or her Institutions.
3. The applicants not to leave the jurisdiction of this Court without permission from the Resident Magistrate of the Court of Resident Magistrate of Dar es Salaam at Kisutu.
4. Each of the applicants to surrender all travel documents including passports to the Resident Magistrate, Resident Magistrate Court of Dar es Salaam at Kisutu
5. The applicants to Report to RCO Dar es Salaam upon a schedule provided by the RCO Dar es Salaam
6. The Resident Magistrate, Resident Magistrate Court of Dar es Salaam at Kisutu to verify sureties and all relevant bond documents.

It is so Ordered.



Winfrida B. Korosso

Judge

30th July 2018