

**IN THE HIGH COURT OF UNITED REPUBLIC OF
TANZANIA
THE CORRUPTION AND ECONOMIC CRIMES DIVISION
AT MTWARA SUB-REGISTRY**

MISC. ECONOMIC CAUSE NO. 1 OF 2018

(Originating from Economic Crimes Case No. 1 of 2018 -Resident Magistrate
Court of Lindi at Lindi)

**SELEMAN MOHAMED MNYAKI @SELE MNYAKI
VERSUS
THE REPUBLIC**

RULING

Seleman Mohamed Mnyaki @Sele Mnyaki (the applicant) filed an application supported by an affidavit affirmed by himself, praying for the Court to grant him bail on conditions it may deem fit pending trial in Economic Crime Case No. 1 of 2018 at Resident Magistrate's Court of Lindi at Lindi and any other relief that the Court may deem fit to grant him.

Paragraph 1 of the affidavit reveals that the applicant is charged with unlawful possession of Government Trophy contrary to section 86(1) and (2)(c) of the Wildlife Conservation Act, No. 5 of 2009 together with paragraph 14(d) of the First Schedule and section 57(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002. The application heeded to the jurisdiction of this Court to hear and determine the bail application. The Respondent Republic duly filed a counter affidavit and at paragraph 7 stated that it will be in the interest of Justice if the application is dismissed for lack of merit.

Before the Court the applicant was unrepresented and appeared in person and when given an opportunity to advance his case, very briefly prayed that the Court proceed to grant him bail and he promised to be available anytime he is directed to do so by the Court if he is admitted to bail.

The Learned Senior State Attorney who appeared for the Respondent Republic, conceded to the fact that the application was properly before the Court and stated that they do not have any objection to grant of bail to the applicant, but prayed that the Court be guided by the provisions of section 36(5) of the Economic and Organized Crime Control Act (as amended by Act No. 3 of 2016) if it is so inclined to grant bail to the applicant when it considers conditions to be met by the applicant.

Having heard the applicant and the respondents, we first address the issue of jurisdiction and competency of the application before the Court. The offence charged against the applicant is an economic offence as averred to in both the affidavit supporting the application and the counter affidavit from the respondents and also having scrutinized the charge sheet which was part of the affidavit sworn by the applicant. The value of the charged property is above ten million shillings and the originating case pending in the Resident Court of Lindi at Lindi is yet to undergo committal proceedings. Therefore by virtue of section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002. Also guided by the holdings in **DPP vs Ling Ling**, Criminal Appeal No. 508 of 2015, Court of Appeal (unreported), we find without doubt, this court has jurisdiction to entertain this bail application.

With regard to the competency of the application, it is filed pursuant to section 29(4)(d) and 36(1) of EOCCA Cap 200 RE 2002 which are the

proper provision to move the Court to hear and determine the application. We also upon scrutiny find that the supporting affidavit is competent a fact also conceded by the Respondent Republic and thus rendering the application to be competent. We are also satisfied that there is nothing before the Court warranting the Court doubt that the applicant will be available to appear in Court when required to- a matter we find important to consider when weighting whether or not to grant bail to the applicant. The applicant as averred in his affidavit that he has a fixed abode a matter not challenged by the Respondent Republic in their counter affidavit or oral submissions. There is also the fact that the Respondent Republic has not registered any objection to the grant of bail to the applicant.

This being the case, we find no plausible reason to refrain from granting bail to the applicant. Consequently, SELEMAN MOHAMED MNYAKI @SELE MNYAKI is admitted to bail as prayed. Pursuant to Section 36(5) and 36(6) of the Economic and Organized Crime Control Act, Cap 200 R.E 2002 on the conditions set hereunder:

1. The applicant to deposit half the amount of the value of the property in the charge he faces or property equal to the value of the said amount. SELEMAN MOHAMED MNYAKI @SELE MNYAKI to deposit an amount equal to Tshs. 82,650,000/- which is half of the total value of the property he is charged against (165,200,000/- x 1/2) or immovable property of the equivalent amount.

2. The applicant to provide two reliable sureties who will be required to execute a bond of Tshs. 10,000,000/- each. One of the sureties must be employed in Government Service.

3. The applicant not to leave the jurisdiction of this court (The High Court) without permission of the Resident Magistrate, Resident Magistrate's Court of Lindi.

4. The applicant to surrender a passport and other travelling documents to the Resident Magistrate, Resident Magistrate Court of Lindi.

5. The applicant to report to Regional Crime Officer Lindi at a schedule to be designed by the RCO.

5. Verification of the sureties and bond documents shall be executed by the Resident Magistrate, Resident Magistrate Court of Lindi.



Winfrida B. Korosso
Judge
13th March 2018

Ruling delivered this day in chambers in the presence of the applicant SELEMAN MOHAMED MNYAKI @SELE MNYAKI and LADISLAUS KOMANYA -SSA representing the Respondent Republic.



Winfrida B. Korosso
Judge
13th March 2018