

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

MISC. ECONOMIC CAUSE NO. 62 OF 2018

(Arising from Economic Crime Case No. 81 of 2018 at the Resident
Magistrate's Court of Dar es Salaam at Kisutu)

1. DEUSDEDITH KATWALE BULAMIRE 2. LUCINA LAWI 3. EDNA ERNEST LUTANJUKA 4. LILIAN S. LAIZER 5. MWARUKA MIRAJI MWARUKA	}	...APPLICANTS
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VERSUS

REPUBLICRESPONDENT

RULING

Date of last order 8/11/2018

Date of Ruling 9/1/2018

Korosso, J.

Deusdedith Katwale Bulamire (1st applicant), Lucina Lawi (2nd applicant), Edna Ernest Lutanjuka (3rd applicant), Lilian Laizer (4th applicant) and Mwaruka Miraji Mwaruka (5th applicant) have filed an application before this Court under certificate of urgency by way of chamber summons supported by an affidavit sworn by Bernard Mbakileki, an advocate duly representing the applicants. The application is pursuant to section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002 and the relief sought is that the Court be pleased to grant bail to the applicants on conditions if may deem fit pending trial in Economic Crime Case No. 81 of 2018.

On the date fixed for Mention, the learned State Attorney, Mr. Faraji Nguka who represented the respondents, Submitted to the Court that, since they have no intention to object to the bail application, they will not file a counter affidavit and if the Court is so inclined the matter can proceed with hearing. This position was supported by the applicants counsel and the Court, having in mind that the matter has been filed under a certificate of urgency proceeded with hearing of the application,

The applicants counsel started by praying for the Court to adopt the affidavit supporting the application so that it forms part of their submissions. In the affidavit supporting the application, paragraph 2 avers that the applicants are charged with Economic Case No. 81 of 2018 at the Resident Magistrate's Court of Dar es Salaam Region at Kisutu as outlined in a copy of the charge sheet annexed a ECC-1. The annexed charge sheet reveals that the applicants under count 1 are charged with Conspiracy c/s 384 of the Penal Code, Cap 16 RE 2002; In the second count and 3rd counts, the charges are Forgery, contrary to section 333, 335(a) and 337 of the Penal Code Cap 16; In the Fourth count, the 3rd applicant is charged with Uttering False documents contrary to section 342 of the Penal Code Cap 16; Fifth Count for all applicants, they face charges of Obtaining Money by False Pretence, contrary to section 302 of the Penal Code, Cap 16 and the sixth count is an economic offence that is, Occasioning Loss to a Specified Authority where all the applicants are charged with, and this is contrary to paragraph 10(2)(a) and (b) of the First Schedule

to and section 57(1) and 60(1) and (2) to the Economic and Organized Crime Control Act, Cap 200. The valued of the charged property being 160,000,000/-

It is averred in paragraph 3 of the affidavit supporting the application that, the 1st, 3rd and 5th applicants are employees of the National Environmental Management Council (NEMC) while the 2nd applicant is a house wife and the 4th applicant is a NEMC Registered Environmental Expert. Under paragraph 6 and 7, the applicants in effect concede that the jurisdiction for hearing and determination of the application is upon this Court bearing in mind that the applicants stand charged of an economic offence where the value of the charged property is above 10,000,000/-.

The applicants have also submitted vide paragraph 8 and 9 of the affidavit supporting the application and vide the oral submissions supported by Mr. Mbakileki learned counsel who represented them in Court during the hearing of the application, that, the applicants are responsible citizens of this country and have fixed abode in Dar es Salaam. That if the Court so grants bail to the applicants the applicants will be in the position to comply with the terms and conditions imposed by the Courts and have available reliable sureties who can executed bonds to secure and ensure appearance of the applicants in Court whenever their case is called upon. The counsel for the applicants ended his submissions by praying that the applicants be granted bail as per the application

and also having regard to the fact that the offence charged against the applicants are bailable.

The Respondents, did not object to the application and relief sought but prayed that if the Court so grants bail, when designing conditions to impose, consideration should be made on the provision of section 36(5) of the EOCCA Cap 200 especially since there is a charge against the applicants, that is, occasioning loss to a specified authority, where the value of the loss is stated as 160,000,000/-.

The applicants rejoinder was very brief, mainly reiterating what they contended in their submission in chief and also praying the Court to consider the principle of sharing when imposing conditions relating to depositing half the value of the charged property.

After hearing submissions and considering the affidavital evidence before the Court, we proceed to consider and determine the competency of the application and the jurisdiction of this Court to entertain the application. There being no contra position from either the applicants or the respondents, and the Court having considered the cited provisions to move the Court, that is, section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200, finds that the competency of the application is not in doubt and that the Court is properly moved. With regard to jurisdiction, having regard to the fact that the applicants are charged with an economic offence where the property charged value

is above ten million shillings as alluded to hereinabove, and the fact that the application arises from a pending case at RM's Court of Dar es Salaam at Kisutu yet to undergo committal proceedings, therefore, there is no doubt that the jurisdiction to hear and determine this application lies in this Court.

There is also no doubt that the offences charged against the applicants are those where bail is open, that is, they are bailable. There is also the fact that there is no registered objection from the respondents. The fact that bail is a right of an accused person, and that, where a person is charged, he is presumed to be innocent until proven guilty, a principle enshrined within the Constitution of the United Republic of Tanzania, 1977 as amended from time to time, we find that, the role of the Court under these circumstances when considering an application such as the one before the Court, is to be satisfied that, the appearance of the accused to stand for his trial is not jeopardized or at risk in any way.

The applicants have averred in the affidavit supporting the application and by way of oral submissions by their counsel that where the Court to grant bail, they will abide to all the conditions imposed by the Court, and that they have reliable sureties if the Court so requires this. Having considered all the underlying and surrounding factors, we find nothing to lead this Court to desist from granting the prayers sought. Consequently, DEUSDEDITH KATWALE BULAMIRE (1st applicant), LUCINA LAWI (2nd applicant), EDNA ERNEST LUTANJUKA (3rd applicant), LILIAN LAIZER (4th

applicant) and MWARUKA MIRAJI MWARUKA (5th applicant are Henceforth Admitted to Bail, subsequent to execution of the following conditions:

1. Each applicant to deposit cash Tshs. 13,340,000/- (considering the value of the property charged and the principle of sharing being 6 accused person in the charges) or immovable property of equal value to the amount ordered to be deposited.
2. The applicant to provide two reliable sureties who are to execute a bond of Tshs. 2,500,000/- each and satisfy the Court on having residency in the area within the jurisdiction of this Court. Sureties have to 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 Dar es Salaam according to a schedule to be prescribed by the Regional Crimes 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

9th November 2018