

**IN THE HIGH COURT OF UNITED REPUBLIC OF
TANZANIA**

THE CORRUPTION AND ECONOMIC CRIMES DIVISION

DAR ES SALAAM DISTRICT REGISTRY

MISC. ECONOMIC CAUSE NO. 47 OF 2018

(Arising From Economic Crime Case No. 33 of 2018, District Court of Kilosa at Kilosa)

KISARIKA YOHANA @SHEKIFU

VERSUS

REPUBLIC

RULING

The Ruling relates to an application under certificate of urgency filed before this Court through a chamber summons and supporting affidavit sworn by Frederic Bernard Msumali, the applicants advocate. The application is filed under section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002 and sought for this Court to grant bail to the applicant on conditions it may deem fit pending trial in Economic Crime Case No. 33 of 2018 at Kilosa District Court at Kilosa.

The affidavit supporting the application alludes to the fact that the applicant is charged as per a copy of the charge sheet annexed to the affidavit, that is, Annexure "ECC-1". Of which states that the charges against the applicant are; Interfering with a Necessary Service contrary to the First Schedule to the Economic and Organized Crime Control Act, Cap 200 RE 2002 read together with section 3(d) of the National Security Act, Cap 200 RE 2002. The particulars of the offence expounds that the value of the property charged against the applicant is Tshs. 22,000,000/-.

The affidavit and oral submissions by the applicants counsel avers that the applicant is a citizen of Tanzania, who works for gain and resides in Kilosa District within Morogoro Region. That the application has been filed in this Court in view of the fact that the charges are economic offences and value of the property charged which is above ten million shillings, and therefore vesting jurisdiction on this Court.

The applicant submitted that, if granted bail, will abide to all conditions imposed by the Court and has available reliable sureties who are of good standing in the society possessing fixed asset and willing to stand as sureties for the applicant. That the available sureties will be able to execute bond to secure and ensure the appearance of the applicant in court whenever his case is called upon. The applicant conceded to the fact that

grant of bail falls upon discretion of the Court and therefore prayed for the applicant to be granted bail as prayed.

On the part of the Respondent Republic, who filed a counter affidavit sworn by Florentina Leonce Sumawe, State Attorney in the National Prosecution Service, conceded to the jurisdiction of this Court to hear and determine the application. This fact was also submitted by the learned State Attorney who represented the Respondents in Court arguing that this fact is cemented by the fact that the value of the property charged is above ten million shillings. The respondents also found the application competent having regard to the fact that the provisions cited to move the Court were proper.

The respondents also exposed the fact that they had no objection to the application, and prayed that having regard to the fact that the Court is the one vested with jurisdiction to entertain the application, if the Court is so inclined and proceeds to grant bail to the applicant, any conditions imposed by the Court be guided by the provisions of section 36(5) and 36(6) of the Economic and Organized Crime Control Act, Cap 200 RE 2002.

Consideration of the submissions and affidavits before the Court has led to a finding that, the application is competent having regard to the provisions cited to move this Court, which the Court finds to be proper, as also submitted by the counsels for the applicant and the respondent. The other

fact is that, this Court is the one vested with jurisdiction to hear and determine the application, in view of the offence charged against the applicant, that is, being economic offences, where the value of the charged property is over ten million shillings, that is, Tshs. 22,000,000/-. There is also the fact that the charges against the applicant are pending at Kilosa District Court, at Kilosa, and neither trial nor committal proceedings have commenced.

The Court has also considered the fact that the Respondent Republic has filed no objection in this Court against the application for bail, be it orally or by certification. Having considered all the submissions, we find there being no reason to deny grant of the prayers sought by the applicant. Therefore, Bail is granted to the applicant, KISARIKA YOHANA SHEKIFU as prayed, subject to the following conditions:

1. The applicant to deposit cash Tshs. 5,500,000/- (considering the value of the property charged and on consideration of the principle of sharing for each count he is charged, there being two accused persons 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. 1,500,000/- 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, District Court of Kilosa at Kilosa

4. The applicant to surrender their passport and any other travelling documents to the Resident Magistrate, District Court of Kilosa at Kilosa.

5. The applicant to Report to the OC-CID Kilosa according to a schedule to be prescribed by the OC-CID Kilosa.

6. Verification of the sureties and bond documents shall be executed by a Resident Magistrate, District Court of Kilosa at Kilosa.

Ordered.



Winfrida B. Korosso

Judge

2nd October 2018