

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

**CONSOLIDATED MISC. ECONOMIC CAUSE NO. 25 & 27 OF 2017**

(Originating from Economic Crime Case No. 35/2017 in Kisutu RM's Court)

- 1. JOSEPH PAUL..... 1<sup>ST</sup> APPLICANT**  
**2. YUSUPH ABUU HUSSEIN..... 2<sup>ND</sup> APPLICANT**  
**3. ATHUMAN ABDALLAH..... 3<sup>RD</sup> APPLICANT**  
**4. PRIMSI NYONI .....4<sup>TH</sup> APPLICANT**

VERSUS

**THE REPUBLIC ..... RESPONDENT**

**RULING**

Date of Last Order 05/09/2017

Dated of Ruling 5/9/2017

**MATOGOLO, J.**

The applicants namely Joseph Paul, Yusuph Abuu Hussein and Athuman Abdallah along with Primsi Nyoni were arraigned before the Court of Resident Magistrate at Kisutu charged with two counts under the Customs (Management and Tariff) Act, [CAP 403 R.E, 2002] read together with paragraph 11 of the first schedule to and sections 57(1) and 60(2) of the Economic and Organized Crime Control Act, [CAP.200 R.E, 2002]. The two counts are in respect of unloading of restricted goods.

They have come to this Court with their application for bail, but they filed separate applications. While the first three applicants Joseph Paul, Yusuph Abuu Hussein and Athuman Abdallah filed Misc. Economic cause

No.25/2017, Primsi Nyoni filed Misc. Economic cause No.27/2017. On 31/8/2017 when the two applications came for mention, this Court ordered for consolidation of the two applications as they are of similar nature. The same were consolidated and heard as one in the record of Misc. Economic Cause No.25/2017.

Later; all applicants filed chamber summons and joint affidavit deponed by the applicants. In their application, the applicants are praying for the following orders:-

1. That this honourable Court be pleased to grant bail to the applicants.
2. Any other orders as the Honourable Court shall deem fit to grant.

The first, second and third applicants were represented by Mr. Manzi learned advocate, the fourth applicant was represented by Ms. Anna Amon, learned advocate. The respondent was represented by Mr. Faraji Ngukah, learned State Attorney.

Mr. Faraji Ngukah, learned State Attorney did not object bail, equally the respondent did not file any Counter-Affidavit. Mr. Ngukah said as the offence the applicants stand charged are bailable and the amount of Tshs. 15,491,568/= involved is small, so, he prayed for the applicants to be granted bail provided they comply with bail conditions which the Court may prescribe.

On his part, Mr. Manzi learned advocate told this Court that they have come to this Court applying for bail as the offence is bailable and the applicants are Tanzanians, first charged before the Court and will comply with bail conditions and have reliable sureties.

Ms. Anna Amon, learned advocate equally said they are before this Court applying for bail to the applicants who are prepared to comply with bail conditions and have reliable sureties.

The applicants are charged with the offences of unloading of restricted goods under section 146(b) (ii) of the Custom (Management and Tariff) Act read together with paragraph II of the 1<sup>st</sup> schedule and section 57(1) and (60)(2) of the Economic and Organized Crime Control Act. These offences are bailable as they do not fall under the offences in which bail is restricted under section 8 of the Written Laws (Miscellaneous Amendments) Act No.3/2016 or section 148 of the Criminal Procedure Act [CAP.20 R.E, 2002], and as there is no objection raised by the respondent, I grant the application.

Since the charge involves four applicants (accused persons), they have to share the burden under the principle of sharing as articulated by the Court of Appeal in **Silvester Hillu Dawi & Stephen Leons Mwambene vs. the Director of Public Prosecutions**, Criminal Appeal No. 250 of 2006, (Unreported), (Dar es Salaam Registry).

The applicants may be released on bail upon fulfilling the following conditions:-

- (1) Each applicant should separately deposit in court Tshs. 1,936,446/= cash money being half of the involved amount apportioned to the four accused persons. Alternatively, each applicant should deposit immovable property with value not less than Tshs. 1,936,446/= by depositing the title deeds of such immovable properties.
- (2) Each applicant must also produce two (2) reliable sureties who should each separately execute a bond of Tshs. 1,936,446/=.

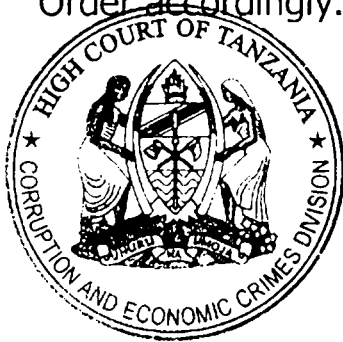
- (3) Each applicant should not leave Dar es Salaam Region without prior permission of the Resident Magistrate in charge of Dar es Salaam Resident Magistrates' Court at Kisutu.
- (4) Each applicant must surrender to Bandari Police Station his passport and any other travelling document(s) he might be possessing.
- (5) Each applicant must report to the Bandari Police Station every Monday before 12:00 (noon).
- (6) Each applicant should appear before the Court on the specific time and dates as scheduled by the Dar es Salaam Resident Magistrates' Court at Kisutu.

**It is hereby further ordered that:-**

1. The applicants will remain in custody until the terms pertaining cash deposit or deposit of Title Deeds of immovable properties are met in respect of the referred two limbs of cash deposit or deposit of Title Deeds of immovable properties **AND** bond execution. Ownership of any property should have approval of the Commissioner for Lands and or Registrar of Titles (as the case may be) with clearance regarding legal status as to existence of any encumbrances whatsoever including but not limited to caveats, mortgages, double allocations, joint ownership or ownership in common, any transfer whatsoever amongst or and any other ownership disputes in respect of any pending suit or whatsoever or the like.
2. The surities and bail documents produced by each applicant must be approved by the Resident Magistrate in charge of the Court of Resident Magistrates' of Dar es Salaam at Kisutu. By reliable sureties means, at least one must be in active Government service.
3. The Resident Magistrate in charge of Dar es Salaam Resident Magistrates' Court at Kisutu must ensure that all bail conditions are

accordingly met and implemented before and after releasing the applicants on bail as above prescribed.

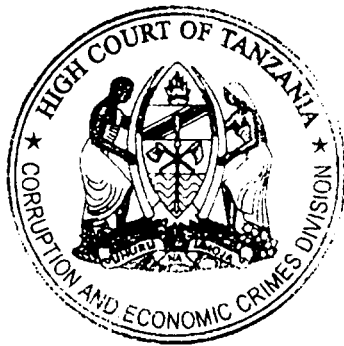
Order accordingly.




  
**F.N. MATOGOLO**  
**JUDGE**  
**05/09/2017**

**Court:**

Ruling delivered today the 5<sup>th</sup> day of September, 2017 in the presence of the applicants and in the presence of their advocates, Mr. Manzi and Ms. Anna Amon learned counsel, and in the presence of Mr. Ngukah, learned State Attorney.



  
**F.N. MATOGOLO**  
**JUDGE**  
**05/09/2017**