

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 37538 OF 2023

(Originating from Economic Crimes case No 28 of 2023 Kisutu RMs Court)

SALUM YAHAYA KILOKO APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

6th & 7th Dec 2023

MKWIZU, J: -

The applicants **SALUM YAHAYA KILOKO** is together with thirteen (13) others, not subject of this application charged with nine (9) counts of economic offences in Economic crimes case No 28 of 2023 pending at Kisutu Resident Magistrate Court .

This application was made under Section 29 (4) (d) and 36 (1) of the Economic and Organized Crime Control Act, Cap 200 R.E 2022 supported by an affidavit sworn by Omega Tephwen Myeya , applicant counsel sworn on 30th October 2023.

When the matter came for hearing on 6th December 2023, the applicant was represented by Mr. Omega Stephen Myeya advocate while Mr. Curthbert Mbilingi was in court for the Republic/ respondent. Mr Myeya's submission was short and focused that ,the applicant is facing a bailable offences ,they have reliable sureties to stand sureties and undertake to

unconditionally comply with the bail conditions to be imposed by the court and therefore he urged the court to grant the application.

On the other hand, Mr Curthbert Mbilingi, the learned state attorney for the respondent had nothing serious to tell the court than expressing his position that was in support of the application urging the court to consider the provisions of section 36(5) and (6) of the EOCCA (Cap 200 RE 2022) to guide in setting the bail conditions.

I have considered the supporting affidavit, the parties' submissions, and the law. It is a clear position of our law that bail is both a statutory and constitutional right for an accused person which is to be restricted only on reasonable grounds. And the governing rule is bail is to be granted where the offences are bailable and there is no any impediment whatsoever expressly or otherwise that would sufficiently convince the court that granting bail would be detrimental to the public safety or in any way interfere with the course of justice.

In this case, there is no such indication, as stated earlier, the learned State Attorney supports the application. As deposed, the applicant is charged with bailable offences. His willingness to abide with the bail conditions to be imposed by the court is visibly shown in the supporting affidavit promising to parade reliable sureties. I do not therefore find reasons to deny the applicant bail in this matter.

Next is what should be the conditions. I have on this aspect revisited the charge sheet and the principle of sharing described in **Lulu Victor Kayombo and another V R.** Misc. Economic Application No 140 of 2021 (Unreported). Bail conditions are prescribed under Section 36 (5) and (6) of the Economic and Organized Crime Control Act [Cap 200 R.E 2022].

These provisions, among other things, requires the applicant to pay cash deposit or submit to court the security whose value is at least half of the value of the property or money involved. The rest of the value is required to be executed by bond. However, since the case involves 14 accused persons then, the amount will be allotted equally among the accused persons under the principle of proportionality. On the premises, the applicant's bail is granted on the following conditions:

1. The applicant shall deposit cash TZS **119,532,487/=** or a Title Deed of immovable properties certified to have a similar value or more.
2. The applicant must provide two reliable sureties with fixed abode in Dar es salaam who will execute a bond valued at TZS. **59,766,243/=** each.
3. Each surety should produce an introductory letter from his or her employer or local authorities and a copy of recognized identity card.
4. The applicant shall not leave the jurisdiction of the Resident Magistrate Court of Dar es Salaam at Kisutu without permission from the Resident Magistrate of Kisutu RMs court.
5. The applicant shall surrender his passport, and any other traveling documents if any to the Resident Magistrate of Kisutu RMs court.
6. The applicant is bound to appear in court at any time when required until the final determination of Economic case No 48 of 2023.
7. The applicant shall not travel outside Dar es salaam without a written approval of the resident Magistrate assigned with the case

during the pendency of the case before Resident Magistrate Co
Court of Dar es salaam at Kisutu,
The Kisutu Resident Magistrate shall verify the sureties and bond
documents. Order accordingly.

Dated at Dare es salaam, this 7th Day of December 2023



E. Y Mkwizu
Judge
7/12/2023