

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DAR ES SALAAM DISTRICT REGISTRY

AT DAR ES SALAAM

MISCELLANEOUS CRIMINAL APPLICATION NO. 8336 OF 2024

**(Arising from Economic Crime Case No. 5134 of 2024
in the District Court of Ilala at Kinyerezi)**

EMMANUEL GADI NKARANG'ANGO1ST APPLICANT

RUGAINUNULA LEO LWEKAMWA.....2ND APPLICANT

MWITA MKAMI NYAKIHA.....3RD APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

Date of last order: 9th April 2024

Date of Ruling: 12th April 2024

MTEMBWA, J.:

Under ***section 29 (4) (d)*** and ***section 36 (1) of the Economic and Organized Crime Control Act, Cap 200, RE 2002*** as amended by ***Act No. 3 of 2016***, the Applicants are seeking for bail pending trial of **Economic Crime Case No. 5134 of 2024** in the District Court of Ilala at Kinyerezi. The Application was brought

under a Certificate of Urgency accompanied to the Chamber Summons supported by the affidavits of the Applicants.

Briefly, the Applicants, stand charged under a seven counts Charge in the District Court of Ilala at Kinyerezi. The amount involved is more than Tanzanian Shillings Ten Million (Tshs. 10,000,000/=), far and beyond the Jurisdiction of the trial Court to hear and or determine the bail Application. While the matter remained pending, the Applicant applied before this Court for bail consideration pending trial.

When this matter was called up for hearing, **Ms. Rose Makupa**, the learned State Attorney, appeared for the Republic while the Applicants enjoyed the service of **Mr. Deiniol Msemwa**. Having been prompted, Ms. Rose Makupa informed this Court that, the Republic has no intention to file the Counter Affidavit to resist or oppose the Application. She However remarked the following on the Applicants' Chamber Summons; that, there is a non-citation of ***section 148 (1) of Criminal Procedure Act, Cap 20 RE 2022***. She commented further that, there is a wrong citation on enabling law, that is, ***the Economic and Organized Crime Control Act (supra)***. In that, she observed that, the same was supposed to be cited as Revised Edition of 2016 and not 2002. She was however of

the views that, the anomalies are not fatal. She implored this Court to grant the Application.

On his part, Mr. Deiniol Msemwa, while beseeching this Court to grant the Application, quickly conceded to the anomalies detected by the learned State Attorney to which I highly personally recommend. I also subscribe to what has been pointed out by the learned State Attorney on non-citation of ***section 148 (1) of Criminal Procedure Act (supra)***. For future guidance, in the Applications of these nature, the same must be cited in line with ***section 29 (4) (d)*** and ***section 36 (1) of the Economic and Organized Crime Control Act (supra)***.

Having considered the Application as filed and the arguments by the learned State Attorney, the question would be whether the Applicants deserve to be granted bail pending trial. Considering the fact that the offenses to which the Applicants stand charged are bailable and considering the fact that, the Republic has not resisted the Application, I see no reason not to grant it as sought. In the result, this application is granted.

I have gone through the Charge and noted that, the Applicants, among other counts, are charged of occasioning loss to the specified

authority in the 6th and 7th counts to the tune of the sum of **Tanzanian Shillings 150,987,915.31/=**, and **Tanzanian Shillings 1,167,537,867.58/=** respectively. That makes a total of **Tanzanian Shillings 1,318,525,782.89/=** being the total sum of the occasioned loss. In that stance, each of the Applicants is responsible for the sum of **Tanzanian Shillings 439,508,594.297/=**. In the circumstances therefore, half of the stated sum is **Tanzanian Shillings 219,754,297.148/=**

In the event, in view of ***sections 36 (5) (a) (b), (c), (d) and 36 (6) (a) of the Economic and Organized Crime Control Act (supra)***, bail pending trial is hereby granted subject to the following conditions.

- (1) Each Applicant shall deposit to this Court the sum of **Tanzanian Shillings 219,754,297.148/=** OR deposit to this Court the Title Deed (s) of the immovable property (ies) valued at or worth of **Tanzanian Shillings 219,754,297.148/=**.
- (2) Each Applicant shall in addition, execute a bail bond of **Tanzanian Shillings 219,754,297.148/=**

- (3) Each Applicant is ordered to report to Dar es Salaam Central Police Station at the end of every month.
- (4) The Applicants are ordered to surrender all of their travelling documents including passports, if any.
- (5) Each Applicant shall have two reliable sureties with fixed place of abode in Dar es Salaam Region who will in addition, execute bail bonds of the sum of **Tanzanian Shillings 219,754,297.148/=** each.
- (6) The above bail conditions shall be approved by the learned Deputy Registrar of this Court.

I order accordingly.

DATED at **DAR ES SALAAM** this 12th April 2024.



H.S. MTEMBWA
JUDGE