

TANZANIA / JUDGMENT

alexander magola daudi daudi others vs republic 2018 tzhc 2078 17 july 2018

COURT
TZHCDECIDED
17 July 2018

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IN THE HIGH COURT OF TANZANIA CORRUPTION AND ECONOMIC CRIMES DIVISION AT
SONGEA MISC. ECONOMIC CAUSE NO. 17 OF 2018 (Originating from Songea District Court
Economic Case No. 14/2018)

1. ALEXANDER MAGOLA DAUDI @ DAUDPi
2. JAMES SAMSON MAHUNDI
3. MOHAMED IBRAHIM SAID > .APPLICANTS
4. HASSAN RAJBU SALUM VERSUS THE REPUBLIC.....
RESPONDENT

RULING

MATOGOLO. 3 The applicants namely Alexander Magola Daudi @ Daudi, James Samson Mahundi, Mohamed Ibrahim Said and Hassan Rajab Salum referred to the 1st 2nd 3rd and 4th applicant respectively on 22/6/2018 appeared before the District Court of Songea charged with an offence of unlawful possession of Government Trophy. It was alleged that on 25 May, 2018 at Lizaboni Area within Songea Municipality, the applicants were found in unlawful possession of 8 pieces of elephant tusks valued at Tshs. 175,275,000/= the property of the Government of the United Republic of Tanzania without a valid permit. Through their advocate Mr. Eliseus Ndunguru, they have filed this application for bail. The application is by chamber summons made under section 29(4)(d) and 36(1) of the Economic and Organized Crime Control Act, Cap. 200 R.E. 2002, section 148(1) CPA and section 8 of Act No. 3/2016. The application is accompanied by an affidavit taken by Mr. Eliseus Ndunguru Advocate for the applicants. The said chambers summons and accompanying affidavit was served to the respondent who opted not to file counter- affidavit. At the hearing M/s Tulibakiwe Juntwa learned State Attorney appeared for the respondent. Mr. Eliseus Ndunguru learned advocate appeared for the applicants. In his submission Mr. Ndunguru prayed to the court that the contents of his affidavit be adopted as part of his submission. Basically he prayed to this court to grant bail to the applicants. And that the main ground of the application is found under paragraphs 4 and 5 of the supporting affidavit. 2 He said this court has jurisdiction to entertain the application because the involved property has

valued exceeding Tshs. 10,000,000/=. That the applicants so far are presumed innocent and have never involved themselves in criminal act before and that if are granted bail they cannot jump bail. Under that circumstances he pray that this court be pleased to grant bail to the applicants. On her part M/s Tulibakwe Juntwa learned State Attorney did not object the application and she left to the court to decide on the applicants application. Having gone through the bail documents that is chamber summons and affidavit which were properly made. Also by looking at the enabling provisions cited, there is no doubt that this court is properly moved to consider the application before it. I have also heard what the learned advocate for the applicants submitted in support of the application as well as what the learned State Attorney has submitted in which essentially she did not object bail. There is no any fact availed to this court warranting denial of bail to the applicants. Given that circumstances. I grant the application the applicants may be release on bail upon fulfilling the following conditions:-

1. As the value of the involved property exceeds Tshs. 10,000,000/=:, each of the applicants shall pay cash deposit in court being half of 3 the involved amount divided among the four applicants. Thus each applicant shall pay cash deposit of Tshs. 21,909,375/=. IN THE ALTERNATIVE Each applicant shall deposit in court title deed of immovable property for registered one, or any other form of recognised evidence of ownership of that immovable property for un registered ones, of value not less that Tshs. 21,909,375/=. The title deed or any other evidence of ownership of that immovable property must have approval by the recognized Government official. The immovable property must be free from any encumbrances what so ever. And it must be located within Ruvuma Region.
2. Each of the applicant shall furnish two reliable sureties who each will sign a bond of Tshs. 10,000,000/=. The sureties must be residents of Ruvuma Region with known place of abode.
3. The applicants shall not leave jurisdiction of this court without prior permission from the Resident Magistrate Incharge of Reuvuma Region.
4. The applicants shall be reporting to the RCO Ruvuma twice in a month on Mondays of the first and third week.
5. The applicants must make sure that they continue to attend to their case on every scheduled date without fail.
6. The Resident Magistrate Inchange of Ruvuma Resident Magistrate Court shall approve the sureties and all bail documents before the applicants are released on bail. Order accordingly. JUDGE 17/07/2018 COURT: Ruling delivered this 17th day of July, 2018 in the presence of the applicants and in the presence of Mr. Eliseus Ndunguru learned advocate and M/s Tulibakwe Juntwa learned State Attorney. JUDGE 17/07/2018

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