

TANZANIA / JUDGMENT

ashumu so melayeki ngiroliti and another vs republic 2020 tzhc 4354 2 december 2020

COURT
TZHCDECIDED
2 December 2020

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE DISTRICT REGISTRY
OF ARUSHA AT ARUSHA MISC. CRIMINAL APPLICATION NO. 60 OF 2020 (C/F Economic Crime
Case No. 69 of 2019 iri the Resident Magistrate's Court) ASHUMU S/O MELAYEKI
NGIROLITI.....1ST APPLICANT SADICK S/O WILLIAM SIKIRARI
LAIZER.....2nd APPLICANT VERSUS THE
REPUBLIC.....RESPONDENT

RULING

25/11/2020 & 02/12/2020 GWAE, J: The applicants above stand arraigned before the Resident Magistrate's Court of Arusha at Arusha with one (1) count to wit; Unlawful possession of Government Trophy contrary to section 86 (1) and (2) (b) of the Wildlife Conservation Act, No. 5 of 2009 read together with paragraph 14 of the 1st schedule and sections 57 (1) and 60 (2) both of the Economic and Organized Crimes Control Act, Cap 200 R.E. 2002 as amended by section 16 (a) and 13 (b) of the written laws (miscellaneous amendment) Act No. 3 of 2016. i As per the charge sheet elated 14th July 2019, it is alleged that the applicants jointly and together were found in unlawful possession of Government trophies notably; one (1) Lion tooth and eighteen (18) lion claws which is equivalent to one killed lion valued at USD 4,900 equal to Tshs. 11, 270, 210. 7/=. As an application for bail in the charge against which the accused person now applicants are charged is not entertainable by the subordinate court for an obvious reason that the value of the trophies (animal) in question, the applicants have filed this application under certificate of urgency. The applicants have preferred this application under sections 149 of the Criminal Procedure Act Cap 20 R.E. 2019, section 29 (4) (d) and Section 36 (1) of the Economic and Organized Crimes Control Act Cap 200, R. E, 2019 read together with section 10 of the Written Laws (Wise. Amendments) Act No. 3 of 2016. When this application was scheduled for hearing before me, the applicants and Respondent were duly represented by advocate Ephraim Koisenge and Mr. Ahmed Khatibu (SA) respectively. The learned state attorney did not resist this application. As an accused person is presumed innocent till proved otherwise as provided for under Article 13 (6) of our Constitution, 1977 and since the offence with which the applicants are

charged are legally bailable and since there is no objection whatsoever from the prosecution, in that premise, this court is therefore justified to grant bail to the applicants (See DPP vs Daud Pete [1993] TLR. 22, Panjuvs R (1973) EA. 282, Jaffer vs. Republic(1973) EA, 39, and Tito D. Lyimo 676 vs.gRepublic(1978) LRT 55. The applicants are consequently admitted to bail subject to fulfillment of the following conditions;

1. Each applicant shall deposit hard cash Tshs. 2,815,050/= . Or other immovable property with title deed/offer or alternatively immovable property with estimated value (valuation report) not below Tshs, 2,815,050/ = .
2. Each applicant shall have two sureties from either public or private office with introductory letters from the area of locality or from their employer (s)
3. The applicants' each surety shall sign a bond of Tshs, 2,815, 050/=each
4. Each surety must have either Passport or National Identity or Driving License Or Voter's Card and each surety's particulars must be clearly recorded including his or her mobile phone
5. The applicants are prohibited to leave the jurisdiction of this court without court's permission.
6. That, applicants have to ensure that they do not commit any offence attracting a custodian sentence while on bail.
7. Deputy Registrar and state attorney to ensure that the bail conditions herein above are fully complied with 3 It is so ordered,) M.R. Gwae, Judge. 02/12/2020 Court: Right of appeal explained on y in respect of the bail conditions set out herein above TW- M. R. Gwae, Judge. 02/12/2020 4

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