

TANZANIA / JUDGMENT

19861210 TZHC Dar es Salaam

COURT
TZHCDECIDED
10 December 1986

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IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM ECONOMIC CRIMES JURISDICTION
(DAR ES SALAAM REGISTRY) ECONOMIC CRIMES, CAS & ~, \If OP ~6 The Repu1'l le versus .
SAID NASORO ABDALLAH~..... ACCUSED

RULING

The applicant has been charged in the ~&t,iet for an economic offence,; \to wit, unlawful exportation of goods f!./s 23(1• and paragraph 1 of Part 11 5th schedule of the EX~hange 'i"trol ordt~e. cap 294 and paragraph ·1 of the 1st schedule and secti" ~~i~l ot tne ··: 4: Economic and organised crime Co!"ltrol Act No 3 tl ot 1984. He is .. - applying for bail under, the provision of sewtio,, 2~ 4) o~ the said In his earlie, ~ubmission Mr. rsmail learned advo~ate for the applicant has st.ated that the applicant has; r,ot breached any condition contained in paragraph 35(), of the Act• Wi;h respect to learned advocate the proviston of sectio" J~3l become~ rel~vant only when the application for bail is made to the EConomle crimes court as constituted by section 4 of the ~~~~ ?he High -court derives i-i:s power to hear ba1l applieatio!"ls undQ the Cr!.mi" a Procedure Act as provided for unde~ ~t1on 28 of Al; 11f4• 'lb~ :-ele~~ provision, akin to section ~~~ o! the Act f1To.1l'1W-• a~ -conta!~d in section 148(5) of the criinffaL J?~ure Act,. !. thf!"k the t e ~ advocate was having in mind the pr""1sion of .sectiOI' 148(~) ot the criminal Procedure ~ct. He further~.~tated that the appl,icant has ~w;~endered.himself to the police and that ±he..applicant has been ~ttted to hospital• -r / r ·_r_-,:; I~. p.;,: (··:i c.. 1 . ,. ' :t 2 r-i:_:o The affidavit haa ~ontained a reportL,c't,nsuJt,a,it p~yslc1an to show that he is suffer_ing from acute _pains arid tha~ he !s · also, suspect~d to suffer from ·diabetic mellitu• Mr. Werema lear"l"ed state attorney !;ho~, ·not obJ~t:ing; to bail has drawn the attention of this CO'frt to the Sef~_ou9nes~ _of the alleged crime and the circumstances sur-rounding .. 4,p ,,, , exp9f4:atitot\ and final ~ discoYery of the elephant tuske in Antwe,fJ He stated ~hat although thG applicant went to the police st;ation hf.meelf,, ~he polic~ took time to trace him. He is praying the cou~ to tmpo~e etfingen~~ondi~ion when ·granting bail. As rightly submitted by Mr. !~mai. the applicant. hai, no.t breached any of the condition contained in seetio, 148(5) of t~e Criminal Procedure Act~ I also· agree with the lea,ened state attorney .that this case calls for serious co~sideratiof ~o the national ~onomy-of the cou~try. There is no allegation that appl,an~ will interfere with investigation. What does appear to me to be the coriee»n ,, t,: ~t the Republic is whether applicant will al;)peaL" to stand hls tria!I. and for this they are asking. for condit.i.on wh.i.ch will ensure the attendance of the applicant in court. Taklng the· circumst~~ of this case that: fear is

not unfounded. I have given the various considerations the submission by both counsel and in the result I give the applicant bail on the following terms and conditions:-

- (a) The applicant to execute bond in the sum of shs,000,000/=
- (b) The applicant to surrender his travel documents to the police, Harar, our police,
- (c) The applicant is not to leave the country of Tanzania without the permission of the court. during the pendency of the case. (d) . The applicant is to report to the Police daily
- (e) ' The Applicant is to produce three sureties each to execute a bond of shs.5,000,000/- the sureties must have known for a long time, reliable and respectable. The sureties should deposit with the court the deeds in respect of their said properties. The sureties to be approved by the court
- 0 jr
- (f) The applicant is to report to the Court on 30-11-84 at 10:00 am, on the date which may be fixed by the said district court, .. E.E. KAZINOTO JUDGE Mr Ismail. MY lord I wish to make a small submission. The applicant is still hospitalized and I pray that that condition be suspended until his recovery. on the position. -- Court:- condition (d) is suspended for the time the applicant is admitted in hospital and shall take effect on the day of his discharge. E. E ., KAZIMOTO JUDGE Mr. Ismail:- I have sureties outside the court. EXONeration of sureties;
1. Rashid MURUME Rashid, lives Tanga, Makorora; c.s. , i G9:tundu No house No. plot No 3 Block F Makorora Tanga. 2 . . suleiman Hassan Murr. The title is in my name Plot No .. 3 Block iJ8 Ngamiani. area Tanga street No.1.
3. Mohamed Ashraf, owner of Auto Tech. Motors, Plot No,533 Bungoni Block EX DAY Ilala Dar es Salaam. :- Mr. Werema: I have no quarrel with the first and third sureties. The title in respect of second surety is not in his name, on the face of the title the title is in duplicate and we are not told why it is in duplicate. ~ Because of this problem I pray that the court should not consider the . . ;. second surety as suitable. . Mr. Ismail:- Mariam Natoo is wife of the surety. This is the counterpart. The original is lost. it is not a duplicate. we have other sureties but their titles are with THB!" we made efforts. to get sureties from Tanga. Not a duplicate Order_• The sureties above are admitted and accepted, -iii, ;dJr~TO DAR ES SALAAM 10th December 1986

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