

TANZANIA / JUDGMENT

haruni msumari another vs republic

2018 tzhcced 12 12 april 2018

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12 April 2018

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IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA THE CORRUPTION AND ECONOMIC CRIMES DIVISION DODOMA SUBREGISTRY MISC. ECONOMIC CAUSE NO. 4 OF 2018 (Arising from Economic Crime Case No. 16 of 2018 in the Resident Magistrate Court of Dodoma at Dodoma)

1. HARUNI M S U M A R I I APPLICANTS
2. MSAFIRI MAZENGOJ VERSUS THE REPUBLIC..... RESPONDENT Date of Last Order: - 12/04/2018 Date of Ruling: - 12/04/2018

RULING

W.B. KOROSSO, J Haruni Msumari (1st applicant) and Msafiri Mazengo (2nd applicant) have filed an application with a certificate of urgency via chamber summons pursuant to section 29(4) (d) and 36(1) of the Economic and Organized Crime Control Act, Cap 200 RE 2002 (hereinafter referred to as EOCCA) and section 29(3) of EOCCA and Section 148(1) (3) (5) of the Criminal Procedure Act, Cap 20 RE 2002 (hereinafter referred to as CPA. The application is supported by an affidavit affirmed by Ahmed Athumani Hatibu, learned advocate for the applicants. The applicants sought reliefs being that they be admitted to bail pending trial and determination of charges for unlawful possession of Government Trophies as averred in paragraph 2 of the affidavit supporting the application and also the charge sheet an appendage to the said affidavit. From the affidavital evidence and the oral submissions by the applicants advocate, what is alleged is that the applicants were the 1st of October 2017 at Chipogolo village, Mpwapwa District, Dodoma Regions found in unlawful possession of two pieces of leopard skin with claws and tails valued at Tshs. 15,715,000/- without permission. The applicants have contended that they are reliable, have no previous criminal record nor have they ever jumped bail. That they have reliable sureties if granted bail and that they will enter appearance in Court when called upon to do so. The applicants counsel also submitted that the jurisdiction of this Court to entertain the matter is in no doubt having regard to the cited provision to move this Court and also the fact that the offence charged being economic offences. That counsel also alluded to the fact that the offences charged against the applicants are bailable there being no legal prohibition nor is there a registered objection from the respondents. The applicants therefore prayed to be granted bail.

On the part of the respondents, represented by Ms. Nsana Learned State Attorney, they registered no objection to the application for bail against the applicants and that's why they did not file any counter affidavit. They prayed the Court to ensure that the applicants comply/fulfill conditions they impose if bail is granted as prayed. 2 It is clear that by the fact that the charges are economic offences, and the value of the charged property is above ten million, this Court has jurisdiction. The competency of the application has also not been challenged and the Court is satisfied that though the applicants have supplied numerous provisions to move the Court to entertain the Matter, there being section 29(4) (d) and 36(1) of the EOCCA, which are the ones to properly move the Court in this application, this is enough as propounded in Civil Appeal No. 60 of 2012, Bitan International Enterprises Ltd vs. MishedKotak, a Court of Appeal case. We are also aware that the offence charged is bailable and there have been no objection registered against the application by the Respondent Republic. Therefore, having considered all the above, HARUNI MSUMARI (1st applicant) and MSAFIRI MAZENGO (2nd applicant) are hereby Admitted to Bail subject to the following conditions:

1. Each applicant to deposit cash Tshs. 3,928,750/= or immovable property of equal amount (the principle of sharing has been considered)
2. Each applicant to provide two sureties, each of the sureties to execute a bond of Tshs. 1,000,000/-. Sureties must be resident in Dodoma Municipality and one of the sureties must be an employee of the Government or its institutions
3. Applicants not to leave the vicinity of the area of the jurisdiction of the Court without permission/authorization from the Resident Magistrate, Resident Magistrate Court, Dodoma.
4. Applicants to surrender all travel documents to the Resident Magistrate, Resident Magistrate Court, Dodoma.
5. Applicants to appear in Court with regard to the charges facing the applicants and pending at RMs Court Dodoma when required to do so
6. Resident Magistrate, Resident Magistrate Court, Dodoma to verify all sureties and bond documents. Winfrida B. Korosso Judge 12th April 2018 4

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CASE PAGE <https://chat.esheria.ai/case-law/tanzania/haruni-msumari-v-the-republic-bail-tanzlii-2018>

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