

TANZANIA / JUDGMENT

victor alphonse mageta vs republic

2017 tzhc 2264 17 november 2017

COURT
TZHCDECIDED
17 November 2017

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA THE CORRUPTION AND ECONOMIC CRIMES DIVISION AT DODOMA SUB REGISTRY MISC. ECONOMIC CAUSE NO. 10 OF 2017 (Originating from Dodoma Resident Magistrates' Court at Dodoma in Preliminary Inquiry Economic Case No. 15 of 2017) VICTOR ALPHONCE MAGETA.....APPLICANT VERSUS THE REPUBLIC..... RESPONDENT Date of Last Order: - 09/10/2017 Date of Ruling: - 17/11/2017

RULING

F. N. MATOGOLO. J. The applicant Victor Alphonse Mageta is arraigned in the Resident Magistrates' Court of Dodoma at Dodoma with five counts that is: one; unlawful possession of narcotic drugs contrary to sections 15(l)(a) and 27 of the Drugs Control and Enforcement Act No. 5 of 2015 where it is alleged that; on 14/10/2016 at Kibaigwa village within Kongwa District in Dodoma Region was found in unlawful possession of Narcotic Drugs known as heroin weighing 90.88grams. Two; unlawful possession of narcotic drugs contrary to sections 15(l)(a) and 27 of the Drugs Control and Enforcement Act No. 5 of 2015 where it is alleged that; on the same date and place, the applicant/accused person was found in unlawful possession of Narcotic Drugs known as cannabis (Indian hemp) commonly known as "bhangi" weighing 31 grams. Three; permitting premises to be used to sell narcotic drugs contrary to section 19(1) & (2) of the Drug Control and Enforcement Act No. 5 of 2015 where it is alleged that on the same date and place, the applicant/accused person being owner of a house situated at Karume at Kibaigwa permitted the use of his house to sell and buy narcotic drugs known as heroin and cannabis (Indian hemp) famously known as "bhangi". Four; prohibition of trafficking narcotic drugs contrary to section 15(l)(b) of the Drug Control and Enforcement Act No. 5 of 2015 where it is alleged that, on the same date and place, the applicant/accused person was found trafficking narcotic drugs known as heroin. Fifth; prohibition of trafficking narcotic drugs contrary to section 15(l)(b) of the Drugs Control and Enforcement Act No. 5 of 2015 where it is alleged that; on the same date and place, the applicant/accused person was found trafficking narcotic drugs commonly known as "bhangi". The applicant has filed this application for bail which is by chamber summons made under section 29(1)(b) and 29(3) of the Drugs Control and Enforcement Act No. 5 of 2015 and section 36(1) of the Economic and Organized Crimes Control Act, [CAP. 200 R.E, 2002]. The chamber summons is supported by

an affidavit taken by one Fred Peter Kalonga, learned advocate for the applicant. The Respondent/Republic did not file Counter Affidavit. The applicant engaged legal services of Njulumu and Company Advocates in which Mr. Fred Peter Kalonga, learned advocate appeared while Ms. Magesa, learned State Attorney appeared for the respondent/Republic. In arguing the application, the applicant's learned advocate prayed for his affidavit to be adopted and form integral part of his submission. He further urged for the applicant to be admitted to bail considering the fact that the charged offences are bailable and that the applicant has no previous record of jumping bail. Further, the applicant has permanent place of abode within jurisdiction of this Court that is, Dodoma region and that he will appear in Court as will be scheduled by Court to face his trial. In response, Ms. Magesa learned State Attorney submitted that; basically, the respondent does not object grant of bail to the applicant provided that he comply with bail conditions to be prescribed by the Court considering that the charged offences are bailable in terms of sections 29(1)(b) & (3) of the Drug Control and Enforcement Act and section 148 of the Criminal Procedure Act, [CAP. 20 R.E, 2002]. The applicant's learned counsel had nothing in rejoinder. Having considered the application at hand and the respective submissions by the applicant's learned counsel and the learned State Attorney, the following are the deliberations of this Court. As correctly submitted by the applicants' learned counsel and as clearly stated by the learned State Attorney, that the respondent does not object bail to the applicants. Moreover, the charged offences are bailable offences in terms of Drugs Control and Enforcement Act, the Economic and Organized Crime Control Act as amended by the Written Laws (Miscellaneous Amendment) Act No. 3/2016. Likewise; this Court has not been availed reasons warranting refusal of bail to the applicants And since this court is vested with powers to entertain the application at hand. The application is hereby granted. The applicant may be released on bail in terms of sections 29(1) (b) and (3) of the Drugs Control and Enforcement Act, section 36(1) of the Economic and Organized Crimes Control Act as amended by the Written Laws (Miscellaneous Amendments) Act No. 3/2016 and sections 148(6) & (7) of the Criminal Procedure Act upon fulfilling the following conditions:

1. The applicant shall execute bail bond in the sum of Tshs. 10,000,000/=.
2. The applicant must produce two (2) reliable sureties who should each separately execute a bond of Tshs. 10,000,000/=.The sureties must be residents of Dodoma Region who must each possess immovable property of value not less than Tshs. 20,000,000/= located within Dodoma Region. Ownership of that immovable property must be proved by production of Title Deed or any approval from the recognized authority.
3. The applicant should not leave Dodoma region without prior permission of the Resident Magistrate in charge of Dodoma Resident Magistrates' Court.
4. The applicant must surrender to Dodoma Central Police Station his passport and, any other travelling document(s) if any.
5. The applicant must report to Dodoma Central Police Station twice in a month, on every Monday of the first and third week before 12:00hrs (noon).

6. The applicant should appear before the Court on the specified time and dates as scheduled by the Resident Magistrates' Court of Dodoma as his trial stand pending.
 7. The sureties produced by the applicant must be approved by the Deputy Registrar, High Court Dodoma, or Resident Magistrate in charge of Dodoma Resident Magistrates' Court. By reliable surities means, persons who are in active public service or in a recognized private institution.
 8. The Deputy Registrar or Resident Magistrate in charge of Dodoma Resident Magistrates' Court at Dodoma must ensure that all bail conditions are accordingly met and implemented before and after releasing the applicant on bail as above prescribed. Order accordingly.
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