

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA**

MISC. CRIMINAL APPLICATION NO. 107 OF 2021

(C/F Economic Case No. 06 of 2021 in the Karatu District Court at Karatu)

GENDA QAMBORO @ TLUMBA..... APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

13/12/2021 & 22/12/2021

GWAE, J

The applicant, **Genda Qamboro @ Tlumba** and another person, Domician Simion @ Dommy stand charged with an economic offence in the Kararu District Court. The Economic charge against them contains two counts, namely; leading organized crime c/s to paragraph 4 (1) (a) of the of the 1st schedule to and section 57 (1) and 60 (2), both of the Economic and Organized Crimes Control Act, Ca 200 Revised Edition, 2019 to wit; unlawful hunting, collecting, transporting and selling Government trophies on diverse dates between April 2020 and July 2021

In the 2nd count, the applicant and his co-accused person are charged with Unlawful Possession of Government Trophy to wit; one piece of elephant tusks equivalent to one killed elephant valued at USD 15,000 equivalent to Tanzania Shillings Tshs. 34,650,000/= the property of the Government of the United Republic of Tanzania, c/ss 86 (1) (c) (ii) of the Wildlife Conservation Act, No. 5 of 2009 as amended by section 59 (a) and (b) of the Written Laws (Misc. Amendment No. 2) Act No. 4 of 2016 read together with paragraph 14 of the 1st schedule to, and sections 57 (1) and 60 (2) both of the Economic and Organized Crimes Control Act [Cap 200 R.E. 2019].

Now, the applicant has brought this application under sections 29 (4) (d) and Section 36 (1) of the Economic and Organized Crime Act (supra) read together praying for an order of the court granting him bail pending investigation by police and committal by the committing court as well as trial by the court.

In his sworn affidavit, the applicant stated that he has preferred this application as the offences leveled against him are bailable and this court is vested with jurisdiction as opposed to the District Court. The applicant

further urged this court to grant him bail as he has family, he is innocent as of now and that he has reliable sureties.

On the hearing of this application, the applicant was represented by advocate William Alexander who merely sought adoption of his sworn affidavit and court's reference to the case of **Titos vs. Republic** (1978) TLR 55. Whereas the Republic, respondent was represented by **Ms. Amina Kiango**, the learned State Attorney who did not resist this application save her prayer for the court's imposition of stiff bail conditions in order to guarantee the applicant's appearance.

Considered the sworn affidavit of the applicant's counsel as well as offences against him and provisions of the law that is section 29 (4) and section 36 of the Act, the offences mentioned above are patently bailable subject to conditions as stipulated under Section 36 (5) of the Act as amended by Section 10 of the Written Law (Miscellaneous Amendment) Act, No. 3 of 2016. That, being the position and taking into account that every accused person is presumed innocent till when he or she is found guilty by the competent court of law and after due legal process. It follows therefore an accused person should not be unreasonably denied bail. (See Article 13 (6) (a) of the United Republic of Tanzania Constitution, 1977 as amended


from time to time, **DPP vs. Daud Pete** [1993] TLR. 22, **Panjuvs R** (1973) EA. 282, **Jaffer vs. Republic** (1973) EA, 39, and **Tito Lyimo vs. Republic** (1978) LRT 55. I accordingly order that the 2nd accused now applicant be admitted to bail upon fulfillment of the following conditions pursuant to section 36 (5) of the Act:

1. That, Applicant shall deposit hard cash Tshs. **17,325,000/=**. or other immovable property with title deed alternatively, with estimated value not below half the actual amount of money involved (**17,325,000/=**), by an authorized valuer.
2. That, the applicant shall have two sureties who must come from the area of the jurisdiction of this court with introductory letters from the area of locality or from their employer(s) being sealed and having necessary features such phone numbers, passport sizes of sureties annexed to the letters etc
3. The sureties shall sign a bail bond of Tshs, **8, 662,500/=**
4. Each surety must have either Passport or National Identity or Driving License or Voter's Card and the sureties' particulars must be clearly recorded.
5. The applicant shall not leave the jurisdiction of this Court without the requisite permission being sought and obtained.
6. The applicant, while on bail, shall ensure that he does commit an offence attracting a custodian sentence

7. That, the applicant shall be entering appearance whenever required to do so, be it before the committing court or trial court
8. Bail conditions set out herein above shall be strictly ascertained by the Deputy Registrar of the Court together with a State Attorney.

It is so ordered,




M.R. GWAE,
JUDGE.
22/12/2021m