

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
THE CORRUPTION AND ECONOMIC CRIMES DIVISION
AT DODOMA SUB REGISTRY**

MISC. ECONOMIC CAUSE NO. 12 OF 2017
(Originating from Singida District Court in
Preliminary Inquiry Economic Case No. 19 of 2017)

ALLY YASUMI MAHENGU APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

Date of Last Order: - 15/11/2017

Date of Ruling: - 16/11/2017

RULING

F. N. MATOGOLO, J.

The applicant one Ally Yasumi Mahenge has been arraigned before the District Court of Singida at Singida with one count of unlawful possession of narcotic drugs contrary to section 15(1)(a) and (2) of the Drugs Control and Enforcement Act No. 5 of 2015 read together with paragraph 23 of the first schedule to and sections 57(1) and 60(2) of the Economic and Organized Crime Control Act, [CAP. 200 R.E, 2002] as amended by sections 13(b) (2), (3) & (4) and 16(b) of the Written Laws (Miscellaneous Amendments) Act No. 3 of 2016.

It is alleged that; on 13th day of August, 2017 at 12:00hrs at Karakana area, Misuna Ward, Mungumaji Division within District and

Region of Singida, the applicant (accused) was found in unlawful possession of one hundred and thirty two (132) bundles of narcotic drugs to wit: "khat" commonly known as "mirungi" weighing 12.53 kilograms.

The applicant has preferred this application for bail by chamber summons made under section 29(3) of the Drugs Control and Enforcement Act No. 5 of 2015, section 36(1) of the Economic and Organized Crimes Control Act, [CAP. 200 R.E, 2002] as amended by the Written Laws (Miscellaneous Amendments) Act No. 3/2016 and section 148 of the Criminal Procedure Act, [CAP. 20 R.E, 2002]. The chamber summons is supported by an affidavit taken by the applicant. Notably, for undisclosed reasons; the Respondent/Republic did not file Counter Affidavit.

The applicant engaged legal services of Mr. Ndunguru, learned advocate whereas Mr. Harry Mbogoro learned State Attorney appeared for the respondent/Republic.

In arguing the application, the applicant's learned advocate urged for the applicant's affidavit to form integral part of his submission. Besides, he prayed for the applicant to be admitted to bail considering that the charged offence is bailable and no Counter Affidavit has been preferred by the respondent challenging the application. It was the learned advocate's further submission that the applicant has dependants who need his assistance for their survival adding that, the applicant will comply with the bail conditions.

In response, Mr. Mbogoro learned State Attorney submitted that; essentially, the respondent does not object grant of bail to the applicant for the charged offence is bailable and they do not have reasons to object bail. Mr. Ndunguru learned advocate 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, there no reason why the applicant should not be released on bail.

As correctly submitted by the applicant's learned counsel and as clearly stated by the learned State Attorney, essentially; the charged offence is bailable in terms of the Drugs Control and Enforcement Act and the Economic and Organized Crime Control Act as amended by the Written Laws (Miscellaneous Amendment) Act No. 3/2016. The respondent does not object bail to the accused. Likewise; this Court has not been availed reasons warranting refusal of bail to the applicant.

Therefore; the application is granted. The applicant may be released on bail upon fulfilling the following conditions;-

1. The applicant shall execute bail bond of Tshs. 5,000,000/=.
2. The applicant must produce two (2) reliable surities whereas each should separately execute a bond of Tshs. 1,000,000/=.
3. The applicant should not leave Singida region without prior permission of the Resident Magistrate in charge of Singida Resident Magistrates' Court at Singida.

4. The applicant must surrender to Singida Central Police Station his passport, and any other travelling document(s) he might be possessing.
5. The applicant must report to Singida Central Police Station every Monday of the second week.
6. The applicant shall appear before the Court on the specific time and dates as scheduled by the District Court of Singida.
7. Each surety produced by the applicant must be approved by the Resident Magistrate in charge of Singida Resident Magistrates' Court. By reliable sureties means, one must be in active public service or in a recognized private institution. The other must be a person with good reputation, recognized in the society where is living and must have identification letter from the Ward Executive Officer of that area.
8. The Resident Magistrate in charge of Singida Resident Magistrates' Court at Singida must ensure that all bail conditions are accordingly met and implemented before and after releasing the applicant on bail as above prescribed, including approving the sureties and bail documents.

Order accordingly.



F.N. Matogolo
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JUDGE
16/11/2017