

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

MISC. ECONOMIC CAUSE NO. 14 OF 2017
(Originating from Dodoma District Court at Dodoma in
Preliminary Inquiry Economic Case No. 17 of 2017)

DOTTO MOHAMED 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 Dotto Mohamed was arraigned before the District Court of Dodoma at Dodoma with two counts that is: **one;** unlawful possession of narcotic drugs contrary to section 15(1)(a) of the Drugs Control and Enforcement Act, No. 5 of 2015. It was alleged that; on 1st day of March, 2017 at Mailimbili area within the Municipality, District and Region of Dodoma, the applicant (accused) was found in unlawful possession of illicit drugs known as "cath edulis" or "khat" commonly known as "mirungi" weighing 31.36kgs. **Two;** prohibition in respect of the occupier of a premise contrary to section 19(1), (2) of the Drugs Control and Enforcement Act No. 5 of 2015, where it was alleged that on 1st day of

March, 2017 at Mailimbili area within the Municipality, District and Region of Dodoma, being the occupier of a house situated at Darajani–Mailimbili, the applicant did permit the said house to be used for sale of narcotic drugs known as “cath edulis” or “khat” commonly known as “mirungi”.

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] and section 148(1), (3) & (5)(a)(iii) of the Criminal Procedure Act, [CAP. 20 R.E, 2002]. The chamber summons is supported by an affidavit taken by the applicant. The respondent/Republic did not file Counter Affidavit for reason which later was disclosed that they did not intend to object bail.

The applicant engaged one Mr. Ahmedi Athumani Hatibu, learned advocate to represent him, whereas Mr. Harry Mbogoro, learned State Attorney appeared for the respondent/Republic.

The applicant’s learned advocate urged for the applicant’s affidavit to form integral part of his submission. Besides, he argued for the applicant to be admitted to bail considering that the charged offences are bailable and that the applicant has no previous criminal record and has never jumped bail. Moreover, the accused is presumed innocent under article 13(6) of the Constitution of the United Republic of Tanzania, [CAP. 2 R.E, 2002] whereas the applicant has a guaranteed right of freedom under article 15(2) of the Constitution. Mr. Hatibu added that, the applicant will appear in Court as scheduled to attend his case.

In response, Mr. Mbogoro learned State Attorney did not resist the application for the charged offences are bailable and they do not have reasons to object bail. Mr. Hatibu learned advocate had nothing to rejoin.

Having considered the application at hand and the respective submissions by the applicant's learned counsel and the learned State Attorney, there is no doubt that for the provision cited, this court is properly moved to consider the application at hand.

As correctly submitted by the applicant's learned counsel and as clearly stated by the learned State Attorney, essentially that the respondent does not object bail to the applicant. Moreover, the charged offences are 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. Likewise; this Court has not been availed reasons warranting refusal of bail to the applicant.

That being the position; this Court grants the application. The applicant may be released on bail upon fulfilling the following conditions;-

1. The applicant shall execute bail bond of Tshs. 8,000,000/=.
2. The applicant must produce two (2) reliable sureties whereas each should separately execute a bond of Tshs. 4,000,000/=.
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) he might be possessing.
5. The applicant must report to Dodoma Central Police Station every Monday of the first and third week before 12:00hrs (noon).
6. The applicant should appear before the Court on the specific time and dates as scheduled by the District Court of Dodoma.
7. Each surety produced by the applicant must be approved by the Resident Magistrate in charge of Dodoma Resident Magistrates' Court. By reliable sureties means, persons who are residents of Dodoma Region with immovable properties. One must be in active public service or in a recognized private institution and must possess identification letters.
8. The Resident Magistrate in charge of Dodoma Resident Magistrates' Court must ensure that all bail conditions are accordingly met and implemented before and after releasing the applicant on bail as above prescribed.

Order accordingly.




F.N. MATOGOLO
JUDGE
16/11/2017