

**IN THE HIGH COURT OF TANZANIA**  
**(DISTRICT REGISTRY OF MTWARA)**

**AT MTWARA**

**MISC. CRIMINAL APPLICATION NO.38 OF 2021**

(Originating from Economic Crimes Case No.7 of 2020 before the District  
Court of Masasi at Masasi)

**SALUMU ISSA HUSSEIN.....APPLICANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

**RULING**

19 May, 2021

**DYANSOBERA, J.:**

This is an application for bail pending trial preferred by the applicant, Salumu Issa Hussein. The application has been made under section 29(4) (d) and 36 (1) of the Economic and Organized Crime Control Act (Cap 200, R.E. 2002) as amended by Act No.3/2016 and section 392(2) of the Criminal Procedure Act [Cap 20 R.E. 2002]. The application is supported by an affidavit of the applicant, Salumu Issa Hussein, affirmed on 9.11.2020. On the party of respondent, The Republic, have not filed a counter affidavit in opposition of the application.

This application is rooted in the Economic Case No.7 of 2020 pending before the District Court of Masasi whereby the applicant is charged with

four counts. The first count is unlawful entry into game reserve contrary to section 15(1) and (2) of the Wildlife Conservation Act No.5 of 2009, the second count is unlawful possession of forest produce contrary to section 88 of the Forest Act, Act No.14 of 2002 as amended by section 28 of the Written Laws(Miscellaneous Amendment)(No.2) Act of 2016. Whereas, the third count facing the applicant is destruction of vegetation in a game reserve contrary to section 18(1) and (3) of the Wildlife Conservation Act No.5 of 2009. The fourth count is unlawful possession of weapon in a game reserve contrary to section 17(1) and (2) of the Wildlife Conservation Act, Act No.5 of 2009 read together with paragraph 14 of the first schedule and section 57(1) and section 60(2) and (3) of the Economic and Organised Crime Control Act [Cap 200 R.E. 2002] as amended by the Written Laws(Miscellaneous Amendments)Act No.3 of 2016.

At the hearing of the application, the applicant appeared in person and fended himself whereas, the respondent was represented by Ms. Caroline Matemu, learned State Attorney. In arguing the application the applicant prayed this court to adopt his affirmed affidavit in support of the application. On the part of the respondent Ms Matemu submitted that they have no objection as to the application of the applicant.

Before I indulge in the application, I would like to awaken the applicant and the respondent that the application ought to have been brought by the current reversed laws of 2019 and not reversed laws of 2002 as it is appearing in the chamber summons of the applicant.



Besides, I am aware that bail is the accused's constitutional right particularly in view of the provisions of Article 13 (6) (b) of the 1977 Constitution of the United Republic of Tanzania as amended from time to time which relates to the doctrine of presumption of innocence. Besides, it is not disputed that the offences the applicant is facing at the subordinate court are bailable albeit the value of the forest produce found in possession of the applicant and destruction of the vegetation in a game reserve is not disclosed. Thus, the question which comes into my mind is how did the trial magistrate know that he is not vested with power to grant bail to the applicant? As far as the submission by learned State Attorney is concerned, the application for bail has not been resisted at all. In view of that argument and in conjunction to the adopted affidavit of the applicant especially paragraph 5 and 6 inclusively, I see no reason to deny bail to the applicant. Thus, for those reasons this application is granted and the applicant is admitted to bail on following bail conditions:-

1. The applicant to execute a bail bond of Tshs. 15,000,000/= with two (2) sureties, each in the same amount.
2. The sureties to produce evidence of possessing immovable property situated at Masasi District.
3. The sureties to be reliable and approved by the Deputy Registrar, Mtwara Zone.
4. The Applicant shall surrender to the Police at Masasi his passport or any other travel documents.

5. The applicant's movements are restricted to Masasi District unless a written permission is sought from and granted by the presiding Resident Magistrate at Masasi District Court.
6. The applicant shall appear before the District Court of Masasi on the dates and times as shall be scheduled by the said District court.

Order accordingly.



  
W.P. Dyansobera

Judge

19.05.2021