

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE 70 OF 2019

MATTEWAS MBAYA alias MATHEWACCUSED

VERSUS

PROSECUTOR..... REPUBLIC

RULING

This matter is coming up this time round for the application of the accused, **Mathewas Mbaya Alias MATHEW** dated 9.3.2021. The same is brought under section 357 of the Criminal Procedure Code, and section 165 of the constitution of Kenya. It is supported by the affidavit of Ntenga Marube, advocate. The same seeks revision of the terms of bond as set by this court. It also has a 2nd affidavit of the accused himself in which he denies that he had run away to avoid arrest. But that the casual work he had been doing was over making him go to the village.

The prosecution has opposed this application and placed reliance on the affidavit of the investigating officer originally file in opposition to the applicant's application for bond.

I have considered the submissions of both sides herein. Worth noting is that this court had considered the accused's application for bail, the objections to the same as raised by the prosecution side, and made a considered ruling on the same. In the said ruling, the court determined that the prosecution had proved at least 1 compelling reasons as to warrant denial of bail to the accused. That he is a flight risk, shown by the fact that the accused had disappeared immediately after the alleged incident and moved out of Nairobi. He was only to be arrested 3 month's later in Bungoma.

The accused (applicant) has now come up with an explanation that he had lost his casual job and had to go to the village. In deponing to this fact, the accused had not given any details of his job. Who were his employers? Any proof of that employment? Without these material details, I am not convinced that the accused (applicant) has shown any sufficient cause as to make this court revise the orders issued herein on 15.5.2020. This application dated 9.3.2021 therefore lacks any merit. I dismiss the same

D. O. OGEMBO

JUDGE

30.7.2021.

Court:

Ruling read out in court (on-line) in the presence of accused (Nairobi Remand), Mr. Marube for the accused and Mr. Chebii for the state.

D. O. OGEMBO

JUDGE

30.7.2021.

Court:

A hearing date to be fixed for this case. Hearing 12.10.2021.