

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. E090 OF 2021

CORAM: R.E. ABURILI, J

PHIDELIS ODUOR OLENDO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for directions arising from Ukwala Principal Magistrates' Court

in Criminal Case No. 306 of 2021)

RULING

1. I have perused the letter dates 27/9/2021 from the Officer In charge Siaya G.K. Prisons. I have also perused the trial court file. The accused is facing robbery with violence charges. There was use of an AK 47 Rifle in the process of committing the alleged offence. The trial court granted the accused bond and even reduced the bond terms to very lenient terms.
2. The accused may be sick but the nature of the offence he is facing is too serious to ignore. Free bond is not appropriate in the circumstances where the accused is considered to be a danger and security risk to the complainant and other witnesses in the case.
3. I decline to make any orders regarding bond and direct the trial court record to be returned to Ukwala PM's court forthwith for an urgent early hearing date to be fixed on priority basis on a day today basis to conclude the case expeditiously.
4. The accused can be heard virtually from prison custody if he is unable to raise bond. I however do not find any reasons for summoning of the Officer In charge Siaya G.K. Prisons in this matter as the accused person is said to be labouring under very serious health conditions and has been in and out of hospital since he was remanded, testing covid-19 positive all the time and having a serious underlying condition. There are health facilities at the G.K. Prisons and only in cases which cannot be handled at the facility which is managed by Government Medical personnel, should an accused inmate be taken to the General or Referral Hospital. What the Officer In charge prisons is expected to do is to update the trial court on the health condition of the inmate as advised by the health personnel who attend to the accused.
5. The accused on his part is expected to cooperate with the court and prisons authorities so that once he feels better and is able to follow proceedings, his case should proceed to hearing instead of him resisting a hearing which then delays disposal of his case.
6. In addition, it would be futile to issue production order for production of a covid-19 positive inmate except virtually.
7. The trial court is guided accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 23RD DAY OF NOVEMBER, 2021

R.E. ABURILI

JUDGE