



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYAHURURU

CRIMINAL REVISION NO.2 OF 2020

(Application Originating from Nyahururu CM's Court CMCR.2269/19 & CMCR.2274/19 by: Hon. C. Obulutsa – C.M.)

VICTOR KIPNGENO LANGAT.....APPLICANT

- V E R S U S -

REPUBLIC.....RESPONDENT

REVISION ORDER

Victor Kipng'eno Langat seeks to have the order of Hon. Obulutsa C.M. dated 28/1/2020 denying the applicant bond to be reviewed.

The grounds he relies on are that he was denied bond for no reason at all; that he is a young man of 30 years who is allergic to cold, dust and is struggling to stay in custody; that he needs to be closely monitored by a physician; that his health is deteriorating; that he has children to educate and pleads with this court to exercise its discretion and review the Chief Magistrate's Order.

I have perused the ruling of the trial court which dealt with the application for bond and the defence counsel's submissions opposing the prosecutor's application substantively.

Whereas Article 49(1)(h) of the Constitution guarantees an accused person's right to bond, bond will be denied if there are compelling reasons to do so.

The prosecution had submitted that the applicant faces 3 other related cases C.M.Cr.936/19, 328/19 and 2274/19 while there were also pending investigations in another file. The court was also referred to a newspaper report which had carried a story of the applicant's arrest and there was fear of the applicant's life being in danger.

The trial court considered the compelling reasons that may warrant denial of bond which include:

1. The nature of the offence;
2. Strength of the evidence;
3. The gravity of the punishment in the event of conviction;
4. The previous criminal record of the accused if any;
5. The probability of the accused absconding;
6. The likelihood of other charges being brought against the accused.

The court also considered the would be compelling reasons under the bond and bail policy guide lines at paragraph 4.26, (b), that the accused is likely to commit, or abet the commission of a serious offence or that it is in the public interest to detain the accused.

It is evident that the applicant has been released on bond before, but he has been arrested again as a suspect in other cases. All the cases are of the same nature, stock theft.

I am in agreement with the trial magistrate's finding that there is real apprehension by the prosecution that the applicant may be involved in

commission of other offences and that his safety may also not be guaranteed. The applicant will be better off and safer in custody. I therefore do not find any good reason to review the trial magistrate's ruling. The application for review is declined. The applicant will remain in custody during the pendency of his trial.

Signed and Dated at NYAHURURU this 10th day of March, 2020.

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R.P.V. Wendoh

JUDGE

PRESENT:

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