



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

CRIMINAL DIVISION

CRIMINAL REVISION NO. 316 OF 2019

LESIT, J

HEZRON ONSONGO MARITA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an application for review of bond terms set by Hon E. Riany SRM dated 14th November, 2019 in Nairobi Chief Magistrate Traffic Case No. 17249 of 2019)

RULING

1. The Applicant **HEZRON ONSONGO MARITA** is the 1st accused in Milimani Traffic Case No. 17249 of 2019. He faces four Counts of Traffic offences the most serious of which is Count 2 of **causing death by dangerous driving** contrary to **Section 46** of the **Traffic Act Cap. 403 Laws of Kenya**.
2. I have looked at the letter requesting this court to exercise its powers under **Section 362** as read with **Section 364** of the **Criminal Procedure Code**. It explains that the Applicant was given bond of KShs. 1 million with surety and in the alternative case bail of KShs.350,000/= with 2 sureties working in the government sector.
3. The Applicant made submissions in person as his counsel failed to show up. He urged that he was an orphan having lost both parents. He urged that his siblings were poor with no permanent jobs and so were not in a position to raise the amount of bond ordered by the court. He proposed to be granted cash bail of KShs.20,000/=.
4. Mrs. Kimaru for the State did not oppose the application to revise the bond terms downwards. She however urged the court to order for surety as security since the State was apprehensive the Applicant could be a flight risk.
5. I appreciate the seriousness of the case and the fear by the State of that the Applicant could abscond. From the Pre-Bail Report filed in the Lower Court by the Probation, the Applicant comes from a stable home albeit poor. The siblings are supportive but are all based in Kisii which is their rural home.
6. As a court we have a duty to balance interests of all parties before us, not just the accused persons but also victims and the State. In this case the Applicant is orphaned and his siblings are poor. He is definitely a man of low income.
7. The Learned Trial Magistrate gave the Applicant bond which is a demonstration that the Court felt the Applicant had earned it, having considered the application and all the factors affecting the case. Having stayed in custody for over a year, it is clear that the Applicant cannot afford to post the bond terms given by the Lower Court.
8. In the circumstances, having considered all the relevant factors I will reduce the bond terms granted to the Applicant by the lower court to the following terms;

1. The Applicant may be released on a cash bail of KShs.30,000/=.

2. The Applicant may in the alternative be released on a bond of KShs.100,000/= with one surety of like amount.

3. If the Applicant raises the cash bail, he should give contact particulars of one person through whom he may be traced.

DATED IN NAIROBI THIS 16TH DAY OF JUNE, 2020.

LESIT, J

JUDGE