

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.162 OF 2019

AUGUSTINE MULWA MUSEMBI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

On 12th April 2019, this court granted the Applicant's application which he sought to be released on bail pending trial. The court ordered the Applicant to be released on bail of Kshs.5,000,000/- with two sureties of the same amount. There were additional conditions attached to the release on bail which are not germane to this Ruling. On 2nd May 2019, the Applicant made an application seeking the review of the bond terms that was imposed by the court. He told the court that he still in remand custody due to his inability to raise the entire bail amount or to get suitable persons to be his sureties. He reiterated that there were no compelling reasons to deny him affordable bond term. The application is supported by the annexed affidavit of the Applicant.

During the hearing of the application, this court heard oral submission made by Mr. Ongoto for the Applicant and by Ms. Sigei for the State. Mr. Ongoto submitted that the Applicant was unable to raise the bond terms that was opposed by the court. He pleaded with court to review the bond terms to Kshs.2,000,000/- with one surety of the same amount. He explained that since the issue of the Applicant's release on bond had already been determined by the court, he urged the court not to impose such terms as to render his release on bail pending trial unattainable. Ms. Sigei for the State opposed the application. She submitted that the Applicant had not demonstrated that the circumstances that informed the court when it rendered its earlier Ruling had changed. She urged the court not to interfere with its earlier determination.

This court has carefully considered the Applicant's application. This court agrees with the Applicant that **Article 49(1)(h)** of the **Constitution** behooves this court to consider granting an accused person reasonable bond terms. The court also agrees with Ms. Sigei that the charges facing the Applicant are serious and that it is imperative that stringent bond terms be imposed to secure the Applicant's attendance in court during trial. That being the case, this court agrees with the Applicant that the offer he has made for the review of the bond terms is reasonable and should therefore be allowed in part.

In the premises therefore, the order issued by this court on 12th April 2019 is reviewed to the extent that the bond terms imposed on the Applicant shall be Kshs.2,000,000/- with two sureties of the same amount. The other terms attached to the bond shall remain the same. It is so ordered.

DATED AT NAIROBI THIS 23RD DAY OF MAY 2019.

L. KIMARU

JUDGE