

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KABARNET

MISCLNEOUS CRIMINAL APPLICATION NO 66 OF 2017

BENSON KIPROP CHEBURET.....APPLICANT

VERSES

REPUBLIC.....RESPONDENT

RULING

I have perused the court file in this matter. I have noted that the ruling of the court on case to answer scheduled for 5/12/2016 was not delivered as set but on 14/2/2017 in the absence of the accused. I have also note that the warrant of arrest was issued on 19/4/2017 when the file was brought up in the absence of the accused without any notice granted to the prosecution itself observed that the case had no hearing date.

It cannot be correct to find that the accused had absconded as ruled by the court on 29/6/2017 and 14/7/2017 when the issue of the accused's bond term was considered.

I consider therefore that the trial court was wrong and unfair in suspending the bail for the accused on 29/6/2017 and subsequently cancelling the bond terms on 14/7/2017.

Orders:

1. Accordingly, the bail is reinstated on the same terms and security as previously granted and provided by the accused. The accused will therefore be released from custody forthwith.
2. The trial court file and original certified copy of the ruling of the application to be returned to Eldama Ravine Law Courts for Mention on 28/7/2017 as scheduled.

DATED, SIGNED AND DELIVERED AT KABARNET THIS 25TH DAY OF JULY, 2017.

.....

EDWARD MURIITHI

JUDGE

Appearance

1. M/S Kiptoon & Co. Advocates
2. Ms. Macharia, Ass. O.D.P.P