

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL CASE NO.79 OF 2015

MARTIN GITUMA KINOTI.....ACCUSED

Versus

REPUBLIC.....RESPONDENT

RULING

[1] Wendoh J declined to grant the accused person in a ruling dated 28th April 2016. The accused has now applied through Summons dated 20th July 2016 for review of the said order refusing him bail. On 9th May 2017, Wendoh J observed that she is no longer in this station, thus, any judge within the station could hear the application for review. She however ordered that a pre-bail report be filed to establish whether the prevailing circumstances have since changed. I have the honour of considering the said application for review.

[2] The accused stated in the affidavit in support of the application that circumstances which led to his denial of bail have since changed. And that the family are now willing to accommodate him if he is released. He deposed further that he has a wife and a small child who need him. In addition, he averred that he will abide by all terms that the court shall set and he shall faithfully attend court for his trial. On that basis, he applied for review of the earlier order denying him bond.

[3] The pre-bail report states that circumstances have not changed as the community is still hostile to him. The report has provided fine details that the community and victims of his actions are still traumatized. The report also states that the accused is still sending threats to his relatives and witnesses. These were the same factors which the court considered and denied him bail. I am particularly perturbed by the report that the accused is threatening witnesses and his relative while he is in custody. Such conduct is not only an affront upon victims of this crime and witnesses but also an affront upon the administration of justice. These are compelling reasons in the sense of article 49(1)(h) of the Constitution for which bond may be denied. Accordingly, I do not find any sufficient cause to review the order which denied the accused bail. I dismiss the application dated 20th July 2016. It is so ordered.

Dated, signed and delivered in open court at Meru this 24th day of July 2017

F. GIKONYO

JUDGE

In the presence of:

Mr. Mungai State Counsel for State

Mr. Ojiambo advocate for Ndubi

F. GIKONYO

JUDGE