



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**MISC. CR. APPLICATION NO. 304 OF 2017**

**JOHN SAMSON AWILI OGEJO.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

From the chronology given by the State, bond was cancelled because the Applicant failed to avail the surety in court so that the court could explain to him that the Applicant had been more than once absent in court.

If, as stated by the Applicant, that the initial surety is still willing to deposit his security for the release of the Applicant, nothing stops the Applicant from availing him to court so that he can state his position. However, the decision he makes must be based on the disclosure that the Applicant has been absenting himself from court attendance.

In view therefore, I direct and order that if the initial surety presents himself in court and he makes it known his willingness to continue standing surety for the Applicant, the original bond terms shall stand. However, if he wishes to withdraw, then the fresh terms of bond/bail shall stand. It is now up to the Applicant to decide whether or not he intends to avail the initial surety. The court shall however have to satisfy itself as to the identity of the person presented to court that he/she is one and the same person as the surety on record.

Accordingly, the application partially succeeds with the orders above. The ruling be served upon the trial court for compliance.

**Dated and Delivered at Nairobi this 21<sup>st</sup> day of November, 2017.**

**G.W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

- 1. Applicant present in person*
- 2. M/s Akuja for the Respondent.*