

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

CRIMINAL APPEAL NO. 2 OF 2013

ZACHARIA OMARA HIRIBAE.....ACCUSED

VERSUS

REPUBLIC.....RESPONDENT

RULING

In this matter which commenced in 2013, Mr. Nyaga Learned Counsel for the accused has asked for bail in the absence of the accused through an application dated 24th October, 2017 brought under Article 47 (h) of the Constitution of Kenya 2010.

Counsel submitted that the case now being at defence stage, the accused was not capable of interfering with witnesses if released on bail. Counsel also informed the court that the family members of the accused had informed him that the accused was currently unwell and needed medical attention which could not be availed at the prison remand, and that admitting the accused to bail would assist the court to achieve progress in the case.

Mr. Okemwa, Learned Principal Prosecuting Counsel submitted that bail was a constitutional right, subject to existence compelling reasons against same.

Counsel stated that for now he saw no compelling reasons for him to oppose the application for bail, but asked for reasonable bond terms.

I have considered the application and submissions of the defence counsel and the prosecution. Under Article 47 of the Constitution of Kenya 2010, bail is a right foreveryone who has been held in custody on criminal suspicion, except where there is compelling reasons to deny him or her such bail.

The State does not have compelling reasons for denial of bail herein. I do not see any myself. I will thus allow the application and grant him bail. Bail is thus granted.

What are the conditions for such bail? None of the counsel has suggested any specific terms of bail. I thus order as follows:-

- 1. The accused will be released on signing his own bond of Kshs. 300,000/=, with one surety of similar amount.**
- 2. He will attend the hearing and mentions of this case until its conclusion.**

Dated and delivered at Garissa on 16th November, 2017.

GEORGE DULU

JUDGE