

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT VOI

CRIMINAL CASE NO 2 OF 2017

REPUBLIC

VERSUS

JACKLINE NDUKU..... ACCUSED

RULING

1) This court has carefully considered the submissions by Miss Anyumba for the State, Mrs Isika for the Accused person and Florence Samba, the Probation Officer. It was evident from the Probation Report dated and filed on 5th December 2017 that the Accused person had never been in conflict with the law prior to this incident. She appears not to have had her parents in her life as she was brought up by her aunt, Agnes Mwikali. Her grandmother is an alcoholic and lives as a squatter.

2) The Accused person lived in rental houses at Njukini Trading Centre while her children lived with her aunt, Agnes Mwikali. Clearly, the Accused person has come from a dysfunctional family. It is this dysfunctionality that she attributes to her not having obtained her National Identity Card once she attained the age of eighteen (18) years.

3) The State's apprehension that the Accused person may disappear through the porous borders of the Republic of Tanzania as she resided at Njukini Trading Centre is not misplaced. The question of whether or not her aunt's ID Card got lost recently was not answered as there was no indication that she lost the same eight (8) years ago.

4) Appreciably, an accused person ought not to be denied bail/bond because he or she lives near a border of a neighbouring country as that can be resolved by granting stringent bail/bond terms. However, lack of identification would be a very good reason not to grant bail/bond as such accused person would be a flight risk. In the circumstances foregoing, I am not inclined to grant the bail/bond at this juncture because in any event the family members of the Accused person are non-committal on ensuring her attendance in court for further hearings.

5) This court therefore directs as follows:-

a. The Registrar of Persons to visit Wundanyi G K Prison to look at the possibility of issuing the Accused person with a National Identity Card forthwith.

b. Matter to be mentioned on 23rd January 2018 to confirm if the said National Identity Card will have been issued to enable this court re-consider the Accused person's application for bail/bond.

c. Orders accordingly.

DATED and DELIVERED at VOI this 20th day of December 2017

J. KAMAU

JUDGE

In the presence of:-

Mrs Isika – for Accused

Miss Anyumba - for State

Susan Sarikoki – Court Clerk