

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL APPEAL NO. 99 OF 2016

EVANS MURUNGARU KAMITI.....APPLICANT

Versus

REPUBLIC.....RESPONDENT

RULING

I have considered the respective submissions. To start with, the proceedings in this file ought to have been recorded in the file Misc. Cr. Application No. 389 of 2016. This is the file on which the Applicant made the initial application for reinstatement of his bail before the trial court.

All the same, in my ruling of 23rd December, 2015, I enunciated the reasons why the court was of the view that the Applicant was entitled to bail. I need not belabor on that point any more as reference is available.

It is a cardinal principle to a fair trial that an accused is always presumed innocent unless otherwise proved guilty. Bail should not be granted to an accused as a matter of course. It must serve specific purposes, one of which is to ensure that he attends trial when called upon. If the bond terms are so harsh such that the accused cannot meet them, it defeats the very purpose for which the bond was given in the first instance. This scenario is presented at the present. That is why the court must review the Applicant's bond terms, preferably make them affordable whilst not losing sight of other considerations which must not be overlooked.

In the upshot, I review the terms of bond earlier given. The Applicant shall deposit a bond of Kshs. 500,000/= with one surety of a similar amount to be assessed by the trial court. In the alternative, he shall deposit a cash bail of Kshs. 300,000/=. It is so ordered.

DATED and DELIVERED in Nairobi this 31st day of March, 2016.

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. *Applicant in person*
2. *M/s Wario holding brief for M/s Aluda for the Respondent.*