



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPLICATION NO.95 OF 2016

MARTIN MURATHI MURIRIA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

This is an application in which the Applicant sought consolidation of bond terms. From the application which was filed on 21st March, 2016, he currently is facing 6 criminal cases as follows:-

a) Criminal Case No. 1447 of 2013 pending before City Court No. 3 in which a cash bail of Kshs. 2,000,000/= or a bond of 5,000,000/= was granted. A copy of the charge sheet attached shows that he was charged alongside others with various counts. In his respect he was charged with stealing Kshs. 3.9 million, the property of the Judiciary of the Republic of Kenya. In the alternative, he was charged with handling the same amount of money knowing or having reason to believe it to be stolen money or unlawfully obtained.

b) Criminal case No. 1448 of 2014 pending before Chief Magistrates' Court at Nairobi Court No. 1 in which he was granted a cash bail of Kshs.100,000/= or a bond of 1 million. In that case, he was charged with stealing in which it is alleged that he stole approximately Kshs.6.7 million the property of Commercial Bank of Africa. In the alternative, he was charged with handling the same amount of money knowing or having reason to believe it to be stolen money or unlawfully obtained.

c) Criminal Case No. 593 of 2014, pending before the Chief Magistrates Court at Nairobi in court No. 4 in which he was granted a cash bail of Kshs. 500,000/= or a bond of Kshs. 1,000,000/=. In that case, he was jointly charged with others with conspiracy to defraud Chase Bank Ltd. a sum of 5.4 million. He also separately faces a charge of stealing and in the alternatively handling stolen property being a sum of Kshs. 1 million the property of Chase Bank. He is further charged with a count of stealing and in the alternative handling a sum of Kshs. 1.9 million the property of Chase Bank Ltd.

d) Criminal case No. 1776 of 2011, pending in the Chief Magistrates Court at Nairobi Court No. 3 in which he was granted a cash bail of Kshs. 100,000/= or bond of Kshs. 200,000/=. In this case, the court is not able to deduce the serial number of the case from the charge sheets provided.

e) Criminal Case No. 256 of 2011 pending before Chief Magistrate's Court at Nairobi Court No. 11, in which he was granted a cash bail of Kshs. 50,000/= or a bond Kshs. 100,000/= In this case, he faces various charges ranging from forgery, altering a false document and attempt to obtain goods by false pretences.

f) Criminal Case No. 1212 of 2012 pending before Chief Magistrate's Court at Nairobi Court No. 11 in which he was granted a cash bail of Kshs. 30,000/= or a bond of Kshs.100,000/=. He faces two counts of forgery and stealing some tyres valued at Kshs. 72,000/=.

The Applicant submitted that the total sum of cash bails was too heavy for him to meet. In equal measure, he would not afford the number and amount of the surety bonds granted. He urged the court to take into consideration the fact that all the cases were investigated by one Police Station being KICC Police Station and so consolidation of the bonds would not be prejudicial. Lastly, he told the court that he suffers from asthma and the conditions at prison are not conducive for his recovery.

Learned State Counsel Ms Aluda opposed the application. She submitted that the terms of bail and bond granted were reasonable. Further that the offences were committed at different locations which could not justify the consolidation of the bond. She finally submitted that although the Applicant alluded that he was asthmatic, it is a sickness that can be well taken care of in the remand in the event that he cannot afford the terms of bail.

I have accordingly considered the respective submissions. Save for Criminal Case No. 1447 of 2013 in which the Applicant was granted a cash bail of 2 Million or a bond of 5 million, the rest of the terms of bail are quite reasonable. I have considered the nature of the offences with which the Applicant is charged. It is a cardinal principal in the criminal justice that an accused is presumed innocent unless otherwise proven guilty. The terms of bail or bond granted to an accused should never at any given time be punitive. Whereas I have already ruled that the terms of each respective case are reasonable, given that the Applicant faces numerous court matters, particularly in the respect of the surety bond, he may not be in a position to bail himself out. It is only just that the bail terms be consolidated with respect to the cases filed at Milimani Law Courts. The Criminal case at City Court ought to be treated individually due to the distance of the court and the convenience of reference of the file. I however wish to note that the bail/bond terms therein are not commensurate with the offence the Applicant is facing. He is not one of the accused in count I which relates to a sum of Ksh.80,000,000/=. His charge relates to a sum of Ksh. 3.9. I shall accordingly reduce the bail/bond terms. In the result, I give the following orders:-

a) In Cr. Case No. 1447 of 2013 (City Court), I release him on a cash bail of Ksh. 400,000/ or a bond of Ksh. 800,000/ with one surety of a similar amount.

b) Bond terms in respect to Cr. Cases No. 1448 and 593 of 2014, Cr. 1778 and 256 of 2011 and Cr. 1212 of 2012 are hereby consolidated. He shall pay a cash bail of Kshs. 500,000/= or a bond of Kshs. 1 million with one surety of a similar amount to be assessed by Court No. 1 or as that court may direct.

It is so ordered.

DATED and DELIVERED this 28th day of April, 2016

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. *The Applicant in person.*

2.for the Respondent.