



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

HIGH COURT CRIMINAL CASE NO.6 OF 2016

REPUBLIC.....STATE

-VERSUS-

BERNARD OBAIGWA ATEI.....ACCUSED

R U L I N G

On 30th March 2016, the accused person applied for review of his bond terms delivered on 17th December, 2013 in Kisii High Court by Lady Justice R.N. Sitati.

In that ruling the terms of the bond were as follows:

1. The accused may be released on his own bond of Kshs.1000,000/= (Kenya Shillings One Million) plus 2 sureties of a like amount.
2. The sureties shall be approved by the Deputy Registrar of this court.
3. The accused shall attend court once every 30 days for mention of his case until the case is heard and determine or until further orders of this honourable court.
4. In default of any one appearance for no justifiable causes, the bond shall stand cancelled and the sureties called to account.
5. Mention on 17/01/2014.

The applicant states he has been unable to afford the terms set out in this ruling, as supra. He applies for affordable or reasonable terms. **Article 49 (i) (h)** is clear on the need for the accused person to be released on bond, or bail on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.

The emphasis is on the word “reasonable conditions”

Therefore when the terms of the bond are unaffordable, as in this case, then, in my view, the terms are deemed unreasonable and therefore prohibited by the constitution if there are no compelling reasons to deny bond as in this case.

In view hereof, this court will review the bond terms as here below:

1. The accused may be released on his own bond of Kshs.500,000 plus one surety of similar amount.
2. Other terms as set out in the earlier ruling to remain the same in as much there is relevance, that is, from 2 to 4 thereof.
3. Mention on 23rd of May 2016.

Orders accordingly.

Dated and delivered at Nyamira this 22nd day of April 2016.

C.B. NAGILLAH

JUDGE

In the presence of:-

Nyamwange hold brief for Ochok for accused person

Konga for the State

Mercy- Court Clerk