



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**MISC. CRIMINAL APPLICATION NO. 345 OF 2016**

**ANTHONY NJUNGE MUIRURI..... APPLICANT**

**VERSUS**

**REPUBLIC..... RESPONDENT**

**RULING**

I have looked at the charges the Applicant is facing. Although on the face of it the bond terms are commensurate with the offence, since nothing demonstrates that the Applicant is a flight risk, I will rule in his favour.

I shall review the bond terms. I admit him to a cash bail of Kshs. 500,000/=. In the alternative, he shall deposit a bond of Kshs. 1 million with a surety of a similar amount to be assessed by the trial court.

On the transfer of the file from the current trial magistrate, although the lower court record has not been availed, the mere fact that another suspect has not been charged does not constitute a good ground for the transfer of the file. A magistrate plays no contribution to the process of investigation and cannot therefore determine when a suspect should be charged. My advice to the Applicant is to plead with the court that the trial proceeds, the absence of the suspect notwithstanding. Further, he should plead his case and interest of justice on why the trial should not be delayed.

I do accordingly decline to order the transfer of Cr. Case No. 48 of 2016 to another court. It is so ordered.

**Dated and Delivered at Nairobi this 23<sup>rd</sup> November, 2016.**

**G.W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

- 1. Applicant present in person*
- 2. M/s Akuja for the Respondent.*