



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

HCCR 88 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

ISAAC MWITI KIREMA

JAPHET MURITHI M'IGWETA.....ACCUSED

RULING

This is an application dated 10th December, 2014. Both accused Isaac Mwiti and Japhet Murithi M'Igweta seek to be released on bond on reasonable terms to enable them conduct the case that they filed while outside custody. The application is premised on the affidavit of the 1st accused Isaac Mwiti Kirema who swears it on his own behalf and that of his co-accused Japhet Murithi I'Igweta. They beseech this court to exercise its discretion under Article 49 (1) (h) of the Constitution and release them on bond; that they are willing to abide by any bond terms that the court may impose and that this case is likely to take considerable time before it is determined.

The respondent did not file any affidavit in reply. In such an application, the court will consider the followed principles

1. Whether the accused persons will turn up for the trial,
2. Whether they are likely to interfere with witness;
3. The nature and seriousness of the offence;
4. The antecedents of the accused;
5. The severity of the offence;
6. The security of the accused.

Under Article 49 (1) (h) of the Constitution, the right to bond is not absolute; accused is subject to any known compelling reason which can be any of the above or any other considering the special circumstances of each case.

In this case, the prosecution has not alluded to any compelling reasons that would warrant this court to deny accused persons bond. The court called for a Pre-Bail Report. Both accused are said to be from Buuri Location of Meru County where they reside. There is no threat to their lives or likelihood of them absconding. In light of the above, I allow the application to release accused persons on bond on the following terms:

1. Each accused may be released on his own bail of KShs.300, 000/= with one surety of same amount;
2. Accused to be of good conduct during the preceding of this case;
3. They should not interfere with witnesses.

In default of any of the above conditions, bond will be cancelled.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MERU THIS 27TH DAY OF APRIL, 2015.

R. P. V. WENDOH

JUDGE.

In the presence of;

Mr. Musyoka for State

Mr. Umani for accused

Faith, Court Assistant

Accused.