



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL CASE NO.17 OF 2015

CARL GARY SINGLEMAN.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The accused Carl Gary Singleton is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the Penal Code. The particulars are that on the 19th day of November 2014 at Neptune Shelder Estate within Gachie Area in Nairobi County murdered **Peris Ashley Agumbi**. He pleaded not guilty on 5th February, 2015 and was remanded in custody pending trial.

On 18th February 2015 he filed an application seeking to be released on bail pending trial. The application was opposed by the State on the grounds *inter alia* that the applicant was likely to interfere with witnesses; was a flight risk; and was likely to abscond trial.

After hearing the application, the court in the ruling dated 11th May, 2015 dismissed the likelihood of interference with witnesses as a far-fetched fear. It was however persuaded that the accused was a flight risk.

The court observed that the accused had initially tried to evade investigation and arrest and confirmed his ticket to leave the country while investigations were ongoing. It ruled that the applicant if released was likely to leave the court's jurisdiction and not turn up for his trial. It dismissed the application and ordered that the accused remain in custody pending trial.

In the present application filed on 18th June 2015 the accused seeks a review of the court's orders on the grounds that the court erred in considering that the accused confirmed his ticket after the alleged incident; and that the accused was unwell and urgently requires specialized medical treatment. The application is supported by the affidavit of the accused who avers at paragraph 8 that his ticket was paid for on 1st May, 2014 and was scheduled to arrive in Nairobi on 23rd May 2014 and depart on 5th February, 2015 and that the dates had been confirmed prior to the date of the incident.

At the hearing of the application on 23rd June, 2015, **Mr. Okulo** for the applicant submitted that the applicant's ticket was not reconfirmed during the time of the incident. He drew the court's attention to the replying affidavit of IP.Morris Chemesis which displayed a copy of the applicant's e-ticket confirming the schedule. He also submitted that the accused had suffered ill health in custody and requires specialized treatment. He provided a medical report from the Nairobi remand and allocation prison health centre to support the submission on the health status of the accused.

On his part, **Mr. Okeyo** made submissions responding to the issue of the accused's ticket and the medical report. He confirmed that the medical report emanated from the remand facility. On the issue of the ticket he conceded that the ticket had been purchased and confirmed prior to the date of the incident. He further submitted that should the court be inclined to review its ruling then it should impose conditions that will ensure that the applicant does not abscond.

I have considered the application. It is apparent to the court from the oral submissions of the prosecution counsel, that the State was no longer opposing the application. Indeed no replying affidavit was filed in response to the present application. Further it appears from the oral submissions of the prosecution counsel that the State has abandoned its earlier position respecting the antecedents of the applicant.

Article 49 of the Constitution on which the application is grounded, grants an accused person the right to bail unless there are compelling reasons to warrant denial. Where the State opposes bail, it must demonstrate to the satisfaction of the court the compelling reasons. See the case of **Republic Vs. Danson Mgunya & another 2010 eKLR**. In the present application, no reasons have been demonstrated to warrant continued denial of bail. In the premises I allow the application.

The applicant shall be released on the following conditions:-

- (i) He shall pay cash bail of One Million Shillings (Kshs.1,000,000/-) with two Kenyan sureties of One Million Shillings (Kshs.1,000,000/-) each.
- (ii) He shall deposit his passport with the court.
- (iii) He shall attend monthly mentions before the Deputy Registrar till the trial commences.

Orders accordingly.

Ruling delivered and dated at Nairobi this 30th day of June, 2015

R.LAGAT-KORIR

JUDGE

In the presence of:

.....: Applicant

.....: Court clerk

.....: For the Applicant

.....: For State