

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.261 OF 2015

MARTIN MURATHI MURIRA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant, Martin Murathi Murira is facing criminal charges brought against him in six (6) separate criminal cases. The criminal cases are yet to be heard and determined. In all the cases, the Applicant has been granted bond pending the hearing and determination of the cases. The bond terms granted to the Applicant are varied depending on severity of the charges facing him. The Applicant does not challenge the terms of bond that was granted to him. In fact, he is of the opinion that the bond terms issued by the various trial courts are reasonable. What the Applicant wants is for the bond terms in all the six cases to be consolidated so that he can be granted one bond term in all the six cases. The Applicant's application is predicated on **Articles 159, 165(3)(a) and 49(1)(h)** of the **Constitution** and **Section 123** of the **Criminal Procedure Code**. The grounds in support of the application are stated on the face of the application. The application is supported by the annexed affidavit of Stanley Kang'ahi, the Advocate for the Applicant.

Although the State did not file any papers in opposition to the application, nevertheless, Ms. Aluda for the State opposed the application. In her submission before court, she was of the view that the application sought by the Applicant cannot be granted since there was no law in support of such situation. She submitted that the charges brought against the Applicant were different in each case and were being tried before different courts. Mr. Kang'ahi for the Applicant conceded that indeed the cases were before different courts. He however reiterated that the Applicant was entitled to be released on bond pending the hearing of the criminal charges facing him because the law presumed him innocent until proven guilty. He was of the view that the granting of bond was an administrative decision which should not prejudice the Applicant by the mere fact that he was facing several criminal charges before several courts.

This court has carefully considered the rival arguments made by the parties herein in support of their respective opposing positions. The Applicant has been granted bond by the trial courts that are hearing the criminal charges facing him. The Applicant has approached this court seeking to have the various bond terms imposed by the respective courts to be consolidated and have him released on one bond term. It was clear from the submission made that there is no legal basis upon which this court can grant the prayer sought by the Applicant. The Applicant has not been denied bail. In fact, the Applicant concedes that the bond terms issued in the various cases are reasonable in the circumstances. When a court is determining whether or not to release an accused person on bail pending the hearing of the criminal charges facing such accused person, the court is guided by **Article 49(1)(h)** of the **Constitution** and principles which have been pronounced by various courts.

In the present case, the Applicant is not complaining that he has been denied bond. In fact, each court, taking into consideration the specific circumstances of each case, exercised its discretion and released the Applicant on bond pending trial. The concept of consolidation of bail terms is foreign in our criminal jurisprudence. The terms of bail in one criminal case cannot be applied in another criminal case facing the same accused person. Each case shall be determined on its own merit. In that regard, this court agrees with Ms. Aluda that the application filed by the Applicant lacks merit because it has no basis in law.

In the premises therefore, the application dated 26th July 2015 lacks merit and is hereby dismissed. It is so ordered.

DATED AT NAIROBI THIS 22ND DAY OF SEPTEMBER 2015

L. KIMARU

JUDGE