



**REPUBLIC OF KENYA**

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

**MISC. CRIMINAL APPLICATION NO.319 OF 2015**

**VICTORIA WAMBUI KIBUNJA.....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**RULING**

The application being for orders for anticipatory bond, the litmus test is that the applicant must demonstrate that his Constitutional rights as enshrined in the Bill of Rights have been infringed or that there is serious threat to breach of his rights if the anticipatory bail is not granted.

In the present case, the applicant contends that the police are being used by the complainant to turn a civil suit into a criminal case. Be that as it may, it is part of the criminal justice process for proper investigations to be carried out by the police once a complaint has been lodged. A complaint has been lodged and the police must conduct due investigations before they arrive at a conclusion that the applicant should be charged in that case. I see nothing wrong with the police summoning him for purposes of investigations.

Further, the Constitution has put in place safeguards that ensures that if a person is put in custody, he cannot be incarcerated for more than 24 hours before he is arraigned in court. That being the case, since the applicant has submitted himself to the due process of investigations, he should present himself at Ruiru Police Station for this purpose. Should the police deem it fit to charge him, they should not place him in custody for a period longer than is provided by the Constitution.

On the whole however, it is my view that the applicant has not demonstrated that he is entitled to the orders sought. The application is dismissed.

**DATED AND DELIVERED THIS 18<sup>TH</sup> SEPTEMBER, 2015**

**HON. G. W. NGENYE – MACHARIA**

**JUDGE**

**In the presence of:**

1. Mr. Gachomo for application
2. Mr. Muriithi for the Respondent