

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.248 OF 2015

KIKA KELLY SERGE.....1ST APPLICANT

FONKI GREGORY ABOEH.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENTS

RULING

I have considered the request for review of the Applicants' application by Notice of Motion dated 10th September, 2015. By a ruling of Hon. Justice Kimaru of 29th July 2015, they were admitted to a bond of Kshs. 5 million with two sureties each of a similar amount. In addition, they were to deposit their passports with the court. They contend that the terms of bond are too high for them to afford.

Miss Ndombi for the Respondent opposed the application arguing that the Applicants are a flight risk as they are foreigners. Their contention that they lost their passports in a robbery was not supported by any evidence. If they are released on bond without securing their court attendance, they would definitely abscond.

In court, both Applicants conceded that they are foreigners. The sole purpose of granting bail pending trial is so as to ensure that an accused will avail himself for the trial. For purposes of persons who are not Kenyan citizens, it is important that they deposit their passports with the court in order that the court secures their attendance for trial once granted bail. There is no evidence that has so far been presented to the court to show that the Applicants lost their passports in a robbery. These are the only documents which the court can hold so as to ensure that the Applicants do not leave the jurisdiction of the court once granted the bail. The Applicants are not able to meet this requirement. That implies that there is an almost 100 percent chance that they will flee the jurisdiction of the court once granted bail. It is my view then that application is not merited. The same is dismissed

DATED AND DELIVERED THIS 12TH DAY OF NOVEMBER, 2015

G. W. NGENYE – MACHARIA

JUDGE

In the presence of:

1. 1st Applicant present in person
2. 2nd Applicant present in person

3. Miss Ndombi for the Respondent