



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL REVISION NO. 45 OF 2014
(From the original Criminal Case No. 1704 of 2014 in the Chief Magistrate's
Court at Mombasa – Hon. Kamau - RM)
ABDIAZIZ SHARIFF HUSSEIN.....APPLICANT
VERSUS
REPUBLIC.....RESPONDENT

RULING

This application for revision is by way of a letter dated the 13th October, 2014. The grounds for the revision are:-

1. That on the 18th September, 2014 when the Accused person appeared in Court for plea taking the Honourable Magistrate did grant the Accused a bond of Ksh. 30,000/= with a surety without an alternative of cash bail.
2. That on the 8th day of October 2014 when we appeared for the Accused application for alternative cash bail was made and the trial Court granted a cash bail of Ksh. 50,000/= with one surety of similar amount.
3. That the enhancement of the cash bail of Ksh. 50,000/= with a surety is punitive to the Accused.

The powers for revision by the High Court are provided for under Section 362 of the Criminal Procedure Code thus,

“The High Court may call for and examine the record of any criminal proceedings before any subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding Sentence or order recorded or passed and as to the regularity of any proceedings of any such subordinate Court”.

A perusal of the record of proceedings indicate that Accused was charged with the offence of stealing from a locked container contrary to section 279(g) of the Penal Code with the alternative count of handling stolen goods contrary to section 322 (2) of the Penal Code.

On the day of plea which was 18th September, 2010 he was granted a bond of Ksh. 30,000/= with a surety. Thereafter on the 8th day of October, 2014 an application for review of bond terms was made and

the Court did grant the Accused a bond of Ksh. 30,000/= with one surety or cash bail of Ksh. 50,000/= and the Accused to deposit his identity card. The order for deposit of the identity card was made in view of the Accused nationality being suspect.

I find no fault with that order but the applicant is not estopped from making an application before the subordinate Court for a further review of the bond terms to a more manageable ones. Only when orders are made which are not regular can the applicant come before this Court.

Ruling delivered dated and signed in open Court this **22nd** day of **October, 2014**.

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M. MUYA

JUDGE

22ND OCTOBER, 2014

In the presence of:-

Mr. Simiyu for the applicant

Court clerk Musundi