



REPUBLIC OF KENYA

High Court at Garissa

Criminal Case 7 of 2013

REPUBLIC.....RESPONDENT

V

ABDI IBRAHIM HAIDHER alias AGAWEIN.....APPLICANT

RULING

1. The applicant, who faces a charge of murder with another person not a party to this application, has come to this court seeking to be admitted to bond/bail pending hearing and determination of this case. He has invoked the provisions of the Constitution of Kenya 2010 under Article 49 (1) (h), the inherent jurisdiction of this court, the general principles of natural justice and the Rule of Law. The grounds in support of the application are found on the face of the application and in the affidavit sworn by the applicant and sworn on 25th April 2013. The grounds can be summarized as follows:

- i. That the applicant is a citizen of Kenya and he resides in Garissa with his family
- ii. That he was arrested on 3rd April 2013 and has been in police custody since that date
- iii. That he has been charged with murder which is bailable under the Constitution of Kenya 2010
- iv. That he has a constitutional right to bond/bail pending hearing on reasonable grounds to be set by the court
- v. That he has unqualified constitutional right to be presumed innocent until contrary is proved
- vi. That he has cooperated with the police during investigations and he is not a flight risk
- vii. That he suffers from diabetes and he is also the sole bread winner for his family
- viii. That there are no compelling reasons to deny him bond/bail

2. The application is not opposed. The learned state counsel however asked the court to set bond/bail conditions that would secure the attendance in court of the applicant.

3. Without belabouring the point, all offences under our laws are bailable upon suitable conditions by the court to ensure the attendance in court of an accused person. However where compelling reasons have been advanced against an applicant the court can deny an applicant bail/bond. This application is not opposed. The applicant has cited several cases among them **Joseph Mwenji v. Republic Nakuru High**

Court Criminal Case No. 112 of 2010; Republic v. Samuel Mwaura Eldoret High Court Criminal Case No. 25 of 2007 and David Njuno Mbiyu v. Republic Nakuru High Court Misc. Criminal Application No. 86 of 2010 in support of his application to be admitted to bail/bond pending hearing and determination of this case.

4. Having given this application due consideration and having taken into account the applicable law and the cited cases as well as the grounds advanced in the application, I find no reason to deny the accused person bail. I therefore allow the application and admit the applicant to bond and bail on the following conditions:

- i. The applicant shall execute a bond of Kshs 1,500,000 with two sureties of similar amount each.
- ii. In the alternative the applicant shall pay cash bail of Kshs 1,000,000.
- iii. The applicant shall report to the DCIO Garissa once fortnightly (every two weeks) until this case is heard and determined.

Those are the orders of this court.

S.N MUTUKU

JUDGE

Dated, signed and delivered this 30th day of April 2013.