



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Miscellaneous Criminal Application 24 of 2013**

**ELLY ODONGO ..... APPLICANT**

**V**

**REPUBLIC ..... RESPONDENT**

**RULING**

This is an application for bond premised on Section 123(2) and 3 of the Criminal Procedure Code Section 23(1) and Section 29(f) of the Constitution of Kenya and all other enabling provisions of the law.

The grounds are that the Applicant was arrested b Police on 16<sup>th</sup> May 2011 and arraigned in Court for the offence of preparation to commit a felony contrary to Section 308(1) of the Penal Code, being in possession of a firearm, being in possession of ammunition under the Firearms Act.

He was granted bond by the trial Court but it was cancelled when he was arrested and charged in Criminal Case No. 1634 of 2011, Criminal Case No. 2971 of 2011 and 2972 of 2011 where he was charged with the offences of robbery with violence contrary to Section 296(2) of the Penal Code. He was subsequently admitted to bail in the other cases but the trial Court in Criminal Case No. 1602 of 201 has refused to reinstate the bond.

It is further contended that no single witness has testified in Criminal Case No. 1602 of 2011 since the plea was taken.

No compelling reasons have been given by the prosecution as envisaged under Article 49(1)(h) of the Constitution.

No argument has been put forward indicating that the Accused/Applicant has jumped bail in the other cases in which bail has been granted.

It is ordered that he be admitted to a bond of Kshs. 500,000/- with one surety of similar amount in respect to Criminal Case No. 1602 of 2011.

**Ruling read and delivered in open Court this 27<sup>th</sup> day of May, 2013.**

**M. MUYA**

**JUDGE**

**In the presence of:-**

**Mr. Ayodo for State**

**Miss Kwaya holding brief for Mr. Oguk**

**for the Applicant**

**Court clerk – Mr. Musundi**