



REPUBLIC OF KENYA

High Court at Nairobi (Milimani Law Courts)

Criminal Case 94 of 2011

TIMOTHY KIBOGA CHOCHI..... APPLICANT

V

REPUBLIC.....RESPONDENT

RULING

The accused Timothy Kiboga Chochi is facing trial for the murder of one Jesse Mbugua Karanja which offence is stated to have been committed on the 28<sup>th</sup> November 2011 at **Pipeline Estate** in Nairobi area within **Nairobi County**. The trial commenced on 19<sup>th</sup> March 2012 and so far three prosecution witnesses have testified.

The accused has now applied to this court to be released on bail. His application is dated 18<sup>th</sup> March 2013 and is based on **Article 49 (1)(h) of the Constitution** which provides for the right to bail; and, on a medical report on his current health status.

The applicant deposes in his affidavit sworn on 18<sup>th</sup> March 2013 that he underwent surgery in the year 2001 and that he now requires another surgery to remove a tumor in his abdomen. His averment is supported by a medical report by one **Dr. B. Waititu** a Surgeon at the Kenyatta National Hospital.

The state initially opposed the application and filed a Replying Affidavit sworn on 2<sup>nd</sup> May 2013 by one **No. 39114 PC Maurice Mukara**. However, on the same day during the hearing, **Mr. Okeyo** for the State appears to have changed his mind and conceded the application. He informed the court that the state no longer wished to oppose the application on humanitarian and medical grounds. He only asked the court to impose conditions that would ensure that the accused attended trial.

Under **Article 49(1) h of the Constitution** an accused person has a right to bail or bond pending trial. Such right however is qualified and where there are compelling reasons the court would normally not release an accused on bail.

I have considered the application. The same is not opposed by the State. I am satisfied, on the basis of the medical records presented, that the applicant is indeed in urgent need of medical attention.

I therefore allow the application and release the accused on the following terms:-

(i) He shall execute a personal bond of One million shillings (Kshs.1,000,000/-) with two sureties of KShs.1,000,000/- each.

(ii) He shall not interfere with the prosecution witnesses and any such interference shall lead to the automatic cancellation of this bond.

(iii) He shall attend court for the mention of his case once every month. The first of such mentions shall be on 25th June, 2013.

It is so ordered.

**Ruling delivered, dated and signed at Nairobi this 21st day of May , 2013**

**R. LAGAT - KORIR**

**JUDGE**

**In the presence of:**

.....: Court clerk

Timothy Kibocha Chochi Applicant

.....: For the accused/applicant

.....: For the state/respondent