

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

MISC. CR. APPLICATION NO. 98 OF 2013

STANLEY KIPCHIRCHIR KOSGEY APPLICANT

=VERSUS=

REPUBLIC RESPONDENT

RULING

[Application for anticipatory bail, principles to be applied; Applicant admitting to bribery; Applicant escaping a lawful arrest; no violation of his Constitutional rights, application dismissed]

The Applicant has filed an application seeking anticipatory bail. He has deponed in his affidavit that the police at Nandi have been harassing him on allegations that he may have been involved in committing the offence of Robbery with Violence. He has stated that he was arrested on 17/02/2013, and asked for a bribe to be released. He was released the next day without any charges being preferred after his father assisted with Kshs. 15,000/=. He has stated he has been threatened by the police. He has deponed that on 11/10/2013, the police officers at Nandi moved to arrest him but he escaped.

It is now settled that a person will only be granted anticipatory bail if he can demonstrate that his Constitutional rights have been or may be infringed. See **W. Njuguna =vrs= Republic (2004) KLR 520**. In this case, the Applicant states that he was arrested and released the following day without being charged. However, he admits that Ksh 15,000/= exchanged hands. In other words, he is admitting to bribery. If this is true, then he was released after bribing a police officer. I do not think I have much sympathy to one who opts to bribe rather than face the law. If the Applicant had a problem with being placed in custody on 17/02/2013, as alleged, he had a venue to seek redress or compensation. I can also see that he admits having escaped arrest on 11/10/2013. It is not proper for anyone to escape or attempt to avoid a lawful arrest.

I have not seen any violation of the Constitutional Rights of the Applicant. In fact, he has a duty to attend at the police station to assist the police in investigating the offences which I can see relate to the robbery of motor-cycles in Nandi Hills area.

The upshot of this is that this application is dismissed.

S. MUNYAO

JUDGE.

Ruling delivered on 28th October, 2013. Read in the presence of **Mr. Arap Mitei** holding brief for **Mr. Lel** for the Applicant.

S. MUNYAO

JUDGE.