REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MALINDI

CRIMINAL CASE 26 OF 2010

REPUBLIC ……PROSECUTOR

VERSUS

ZABIBU KAHINDI MAKAPU ----------ACCUSED

R U L I N G

Having considered the application by Ms. Otieno on behalf of the accused, and the response of the State, along with the ruling of this court delivered on 320th June, 2011, I do agree that there has been delay since 10th may, 2011 when the last witness (PW9) testified.

Delay was in part occasioned by the absence of the government chemist, who is understandably over stretched in terms of examination of exhibits, and also the fact that this court was on annual leave on 24th April, 2012 when this matter was expected to next resume.

I do not however accept the defence submission that the only cure for the delay is to dismiss the charges against the accused. That would be drastic in the circumstances of this case.

Instead, bearing in mind all relevant matters, I would make the following order:

The accused is to be released on a personal bond of shs. 200,000/- and one like surely in the same amount. Her uncle Frederick Mwarabu named in the Probation Report of 24th May, 2011 and who is present today in court to execute a personal bond in like amount and the accused be released into his care, as he has promised to take her in and to ensure she attends court.

Case now for hearing on 10th and 11th October, 2012.

C. W. MEOLI
JUDGE

Delivered and signed this 17th May, 2012 in the presence of the accused, Ms. Otieno for her, Mr. Naulikha for State.

Court clerk – Evans/Leah

C. W. MEOLI
JUDGE