



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KITALE

Miscellaneous Criminal Application 22 of 2009

CELESTER AJWANG JUMA.....APPLICANT

VERSUS

REPUBLIC OF KENYA.....RESPONDENT

R U L I N G

By a Notice of Motion dated 25th November, 2009, pursuant to the provisions of sections 60(1), 70(a), 71(1),74(1) and 84(1&2) of the Constitution of the Republic of Kenya and section 123(3) of the Criminal Procedure Code the applicant seeks orders:

- (1) That this applicant CELESTER AJWANG JUMA be admitted to bail upon such terms as the honourable court may deem just pending filing of charges (if any) in any court of competent jurisdiction by the D.C.I.O Lodwar Police Station.
- (2) That upon filing charges in court, the OCS named herein above do summon the applicant herein to appear in court for plea.
- (3) That in the alternative the honourable court do make orders as it deems fit to meet the ends of justice.

The application is based on the grounds:

- (a) That from reliable sources, the police officers from Lodwar Police Station are looking for the applicant and arrest her.
- (b) That the applicant is currently sitting for her examination at Kenya Methodist University in Mombasa.
- (c) The applicant has 3 children who are minors and if confined in the cells they stand to suffer.
- (d) That applicant is ready and willing to submit herself to any police station and co-operate with police officers for purposes of proper investigation.

On behalf of the applicant, it was argued that she was an Accountant with the Catholic Diocese of Lodwar. That there are allegations of loss of money at the applicant's said place of work. Consequently, the applicant was suspended from her official duties and later arrested by CID officers but later released on bond.

Sometimes on 10th,11th, 23rd and 24th November 2009, CID officers from Lodwar visited her place of work and intimated that they wanted to arrest and question her over the theft at her husband's place of work. That being a student at Kenya Methodist Mombasa Campus who will be sitting for her exams between 26th November and 1st December 2009, the arrest and eventual incarceration will affect her adversely. In any event the allegations of theft by her husband has nothing to do with her. Hence this application to stop the intended violation of her constitutional rights.

I have noted that the applicant's spouse is the one who has a problem of loss of money in his place of work. In law a spouse cannot be liable for criminal acts of her husband unless it is established there was some conspiracy. The allegations of theft by her husband, on the available evidence, has absolutely nothing to do with her as there is no evidence of conspiracy. Accordingly, I grant the applicant anticipatory bail. She will sign a bond of Sh.100,000/- and two sureties of like sum. She will in addition attend court every 3 months for mention until ordered otherwise. The first mention to be on 5/5/2010.

Dated and delivered at Kitale this 9th day of FEBRUARY 2010.

N.R.O. OMBIJA
JUDGE

Mr Mutuku for State
Mr Onyancha for Chebii