



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
Miscellaneous Criminal Case 42 of 2009**

BERNARD MARETE APPLICANT

VERSUS

REPUBLIC RERSPONDENT

JUDGMENT

The applicant has filed an application under Sections 70, 72, 74 and 84 (1) of the Constitution. He seeks by that application that the court do grant him anticipatory bail/bond pending arrest and charge. In his affidavit in support of that application, he stated that he had been sued in Meru CMCC No. 477 of 2009 by a person called Silas Mbaabu Magambo claiming parcel number *Abogeta/U-Kithangari/1011*. The said Silas had since that suit was filed used the officer in charge of station Nkubu Police Station to what the applicant called, "Order a curfew" over his home. He did not explain what this meant. The applicant then stated that he feared that he would be arrested. That Silas's intention was to use the police to intimidate him and make him unable to pursue a civil claim. The state counsel in response to the application correctly stated that by the Police Act, the police can arrest anyone they reasonably suspect has committed an offence. That is the correct position. Section 14 of the Police Act Cap 84 provides:-

"The force shall be employed in Kenya for the maintenance of law and order, the preservation of peace, the protection of life and property, the prevention and detection of crime, the apprehension of offenders, and the enforcement of all laws, regulations with which it is charged."

That section does not provided that the police in carrying out their duties have to be supervised by the court. They however have to carry out their duties subject to the provisions of the Constitution. The applicant in this matter was unable to show the court that any of his constitutional rights have been infringed or were likely to be infringed. On the whole I find the application has no merit and I dismiss the same and order that the bond issued to the applicant on 7th December 2009 be and is hereby revoked.

Dated and delivered at Meru this 14th day of May 2010.

**MARY KASANGO
JUDGE**