



1. Criminal Practice and Procedure

2. Anticipatory bail

a) Applicant 1 and 2 threatened with arrest by OCS Crime Sosiot since 27.12.08.

b) Relatives behind the arrest.

c) Issue of land.

d) Several cases filed and or charges preferred in the past.

3. **In reply**

a) Not sufficient information but issue may emanate from land matter.

4. **Held**

a) Anticipatory bail to issue

5. **Case Law**

a) **W’Njuguna V R (2004) IKLR 520**

(Rawal J & Kimaru Ag J)

b) **Joseph Cherere Mwangi V R Cr. Misc. App. 553/04**

(Lesiit J)

6. **Advocates**

A.C. Bett advocate instructed by M/S Bett & Co. advocates for the applicants – present

R.K. Koech Senior State Counsel instructed by the Attorney General for the State/Respondent – present

Applicants – present

ERICK KIBET KIKWAI1ST APPLICANT

WILLY KIPNGETICH KORIR2ND APPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

I: Background

1. By an application dated 25th February, 2009, the two applicants herein Erick Kibet Kikwai & Willy Kipngetich Korir apply for Anticipatory bail.
2. Their grounds for this is that the officer in charge Sosiote Police Station based, on false allegations, reported to him by their relatives had consistently been oppressing and intimidating them. They fear that they may be arrested.
3. This court on the 12th March, 2009 arrested the two applicants and released them on bail pending the inter partes hearing.
4. The state had asked for more time. This was granted but the state was not able to get further details.

II: Application

5. The applicants disclose an on going land dispute. The result has been their constant arrest in various files before the lower courts and this court. I did call up some of the files and realized that the dispute herein is more than is envisaged. I have ordered that all the related files be brought up to this High Court for perusal. I further ordered that the presence of the parties be present.

III: Opinion

6. On the anticipatory bail it was held in the case law of W’Njuguna V.R (2004) KLR 520

(Rawal J and Kimaru Ag. J) that inter alia that the right to such bail is so called out “*when there are circumstances of serious breaches on a citizen’s rights by an organ of the state which is supposed to protect the same.*”

1. In the said ruling the Hon. Judges relied on **Section 84(1) & (2)** of the Constitution to grant anticipatory bail. The said section gives the High court inherent powers.
2. In this application, I hereby grant the same with the same terms of bail already given. The parties to report to Officer Commanding Station Sosiote police station on 27th March, 2009.

DATED this 25th day of March, 2009 at **KERICHO**

M.A. ANG’AWA

JUDGE

Advocates

A.C. Bett advocate instructed by M/S Bett & Co. advocates for the applicants – present

R.K. Koech Senior State Counsel instructed by the Attorney General for the state/Respondent – present

Applicants – present