



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**(CORAM: OJWANG, J.)**

**CRIMINAL APPLICATION NO. 401 OF 2008**

**DAVID KABIRU KAHARA.....APPLICANT**

**-VERSUS-**

**REPUBLIC.....RESPONDENT**

**RULING**

This Court has considered the applicant's Chamber Summons application of 16<sup>th</sup> July, 2008 as supported by the affidavit attached; and has heard the submissions of the applicant and of counsel for the respondent.

Counsel has not contested the application – and has brought out the fact that the learned Magistrate had ordered forfeiture of bail without providing the applicant with the fair opportunity to show cause. Similarly the trial Court had ordered cancellation of bail without a fair opportunity for an explanation by the applicant.

I am in agreement with learned counsel that the three sets of criminal cases are concerned with very similar or related transactions, and the question of convenience, efficiency and effectiveness in the conduct of trial, eminently dictates that consolidation be effected.

Consequently I now order as follows:

1. The orders of forfeiture of cash bail in Crim. Case No. 690 of 2008 and No.724 of 2008 are hereby quashed and vacated.
2. The bail/bond terms originally granted the applicant are hereby reinstated.
3. The three criminal cases, namely Crim. Case No. 645 of 2008, No.690 of 2008 and 724 of 2008 are hereby consolidated, and an amended charge sheet shall set them out as specific counts in one criminal case; and on that basis the trial shall proceed according to law.
4. Upon consolidation, the applicant shall enjoy bail terms, this being in the sum of Kshs.100,000/=.
5. The balance of such moneys as the applicant may have paid as cash bail, over and above the said sum of Kshs.100,000/=, shall be refunded to him.

6. This matter be listed for mention before the Principal Deputy Registrar on 22/9/08.

***Orders accordingly.***

**DATED** this 16<sup>th</sup> day of September, 2008.

**J.B. OJWANG**

**JUDGE**