



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Misc. Crim. Appli. 498 of 2008

ABDULFATAH ABUBAKAR ABDIAPPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

On several occasions the applicant applied to be released on bail/bond pending the hearing and determination of his matter. Initially it was the case of the prosecution that investigation was not complete. On 2.1.7.2008, the applicant's advocate again renewed the application for bail but the prosecutor objected arguing that the applicant was likely to abscond if released on bail.

After hearing the arguments on both sides, Mrs. Muketi Senior Principal Magistrate held;

“The accused is ordered to produce a Kenyan surety”.

On 30.7.08, the application for bail was renewed before Hon. Mr. Mutembei, Chief Magistrate who also refused to grant the prayers sought by the applicant. In his view the applicant was facing serious charges and it was imprudent to release him on bond.

Again a similar application made before Hon. Mrs. Githua Senior Principal Magistrate was rejected.

On my part, I have considered the application and the charges preferred against the applicant. There is no reason put forward that would mitigate against the applicant being released on bail pending the hearing and determination of his case. The objective is that a person is presumed innocent until he is proven guilty. The offences against the applicant are bailable and there are no special circumstances to warrant refusal of bail.

I agree with Mr. Kamau learned counsel for the applicant that the applicant is likely to stay in custody for a period beyond the time he is required to serve his sentence.

I have noted Hon. Mrs. Muketi Senior Principal Magistrate directed the applicant to look for a Kenyan surety. The problem with such an order is that it would be difficult to ascertain the same when the said court has not specified the terms and condition to be fulfilled by the applicant.

In the premises, I think it is fair and just to release the applicant on a cash bail of Kshs.300,000/= with an alternative bond terms of 500,000/= with one Kenyan surety of similar amount to be approved by the trial court.

Mention on 18.11.2008 before the trial court for further directions.

M. WARSAME

JUDGE

13.11.2008

13.11.2008

Coram Warsame J

Erick – court clerk

Ms Kagiri for State

Mr. Mbiyu Kamau for applicant

Court: Ruling read in chambers in the presence of the above advocates.

M. WARSAME

JUDGE