

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Misc Crim Appli 339 & 228 of 2008 & 845 of 2007

MWANYA MIGADDEAPPLICANT

VERSUS

REPUBLICRESPONDENT

Consolidated with

Misc Crim Appli 228 of 2008

MWANYA MIGADDEAPPLICANT

VERSUS

REPUBLICRESPONDENT

Consolidated with

Misc Crim Appli 845 of 2007

MWANYA MIGADDEAPPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

In a ruling dated 20th December 2007 His Lordship **Mr. Justice George Dulu** released applicant on a surety bond of Kshs.1 million with Kenyan surety of similar amount. The applicant met the conditions and is currently out of bond pending determination of his appeal. He has now filed an application dated 13th June 2008 seeking; ***“that the orders of Justice Dulu made on 20th December 2007 with regard to bail terms be varied to provide for release on bond of Kshs.1 million with two Kenyan sureties totaling to the said amount”***.

The purpose is that one of the persons who stood surety for the applicant has expressed an intention to withdraw his security and that the applicant has procured two other individuals willing to stand in as sureties for the total amount set by the court. It is alleged that one of the sureties intends to sell his motor vehicle and as a result wants to withdraw as a surety on behalf of the applicant.

I have considered the application, the arguments in support made by **Mr. Rombo** learned counsel for the applicant and **Mr. Makura** for the State. There is no doubt that the applicant was released on bond terms that was fixed by His Lordship **Justice Dulu**. Having met the terms set by the High court the applicant now seeks variation of the earlier bond terms because one of the sureties has expressed his intention to withdraw. I think that in order to allow the surety to access his log book and in order to allow the applicant to continue enjoying his bond terms it is reasonable to vary the orders made on 20th December 2007. In exercise of my powers I order variation of the bond terms in regard to the number of sureties by making an order that the applicant be released on bond of Kshs.1 million with three (3) Kenyan sureties

of Kshs.500,000/= each which shall be approved by the Principal Deputy Registrar of this court.

Dated, signed and delivered at Nairobi this 10th day of November, 2008.

M. WARSAME

JUDGE