



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

**Misc Crim Case 47 of 2007**

**JULIUS KIRIMI ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING**

The applicant who is facing criminal charges in the lower court at Nkubu, PM Court has applied to this court to be admitted to bail pending the hearing and determination of that case.

The prosecution in the court below objected to the applicant being released on bond on the grounds that he was facing other cases in Chuka and Embu Law Courts and that he was likely to interfere with the witnesses.

That objection was sustained by the court prompting this application. First and foremost the charges the applicant is facing are bailable, being obtaining money by false pretences contrary to Section 313 of the Penal Code and being in possession of papers for forgery contrary to Section 367(e) of the Penal Code.

Learned counsel for the respondent opposed the application arguing that the applicant had not applied for bail before the trial court and further that the applicant did not rebut the claims of existence of other cases in Embu and Chuka.

As I have already stated the charges already involved are bailable. Where an offence is bailable the court need not wait for the suspect to apply for bail. It is not a requirement under Section 123 of the Criminal Procedure Code. The court can on its own motion grant bail, unless for reasons to be recorded it thinks otherwise.

In this particular case what we are concerned with is the order denying the applicant bail. It would not have made any difference even if the applicant applied as the trial court was determined to decline to grant one

The reasons advanced for denying the applicant bail are not backed with evidence. The prosecution did not disclose the particulars of the cases in Embu and Chuka Law Courts – or their nature. The fact that a suspect has other cases, *per se* is not a ground for denying him bail.

For these reasons, the application is allowed. The application may be released on bond of Kshs.200,000/= with one surety of the like sum.

DATED AND DELIVERED AT MERU THIS 24<sup>TH</sup> DAY OF JUNE 2007

W. OUKO

JUDGE