

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPLICATION NO.292 OF 2001

(in the matter of an intended appeal)

BETWEEN

CRY MAGLOIRE FOUASSO APPLICANT

AND

REPUBLIC..... RESPONDENT

CONSOLIDATED WITH MISC. CRIMINAL APPLICATION NO.293 OF 2001

NDJENGUE ELIE MOHAMED APPLICANT

VERSUS

REPUBLIC RESPONDENT

R U L I N G

The 2 applicants have applied for variation of bail terms that were imposed by Kibera Senior Principal Magistrate in Criminal Case No.1892 of 2001. The Magistrate ordered that each of the applicants may be released on bond of Kshs.300,000/= plus one Kenyan surety of like sum. The applicants are jointly charged with obtaining Kshs.350,000/= from Alice Wachira on 5/3/2001 by falsely pretending that the applicants could triple that money. They are also separately charged with being unlawfully present in Kenya contrary to section 3(1) of the Immigration Act. Both the offences with which the applicants are charged are bailable.

The application is opposed by Learned State Counsel who said that the applicants are foreigners and that they would be tempted to escape if the bail terms are reduced.

In an application for bond the main consideration by the court is whether an accused person will attend court when required. Other considerations are peripheral. The applicants are yet to be tried on the charges. I find that the terms of bond imposed by the lower court are harsh. I vary the same as follows:-

- (a) That each applicant be released on bond of 100,000/= plus a Kenyan surety of like sum.
- (b) The applicants to be reporting to the investigating officer once a week.
- (c) That the sureties be approved by the Deputy Registrar of this court.

Dated this 7th day of May, 2001.

J.K. MITEY

JUDGE