



**Republic v Ali & 2 others (Criminal Case E021 of 2021)
[2024] KEHC 240 (KLR) (18 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 240 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE E021 OF 2021**

**A. ONG'INJO, J
JANUARY 18, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

RIZIKI CHERONO ALI 1ST ACCUSED

**TIMOTHY OMONDI NGOWE ALIAS TONY OCHIENG ALIAS MOHAMED
KHALID 2ND ACCUSED**

MARY NEKESA AMBANI 3RD ACCUSED

RULING

1. The ruling herein is in respect of an application for review of bond terms for the 1st Accused person and admission to bail for the 2nd Accused person.
2. Mr. Magolo Jared Advocate for the 1st Accused, made an oral application in court that the 1st Accused was granted strict bond terms including that she should not reside in Mombasa. That this was to safeguard the vulnerable witnesses who were the children before they testified. He prayed that the terms be reviewed so that the 1st Accused may be able to live in Mombasa to reduce the cost of trial and enable her salvage her property. He stated that there would be no prejudice as the intention of bond terms had been achieved.
3. The state objected to review of bond terms for reasons that circumstances had not changed and that the 1st Accused person had been breaching the bond terms that were granted to her and has therefore not demonstrated compliance with the orders that she reports to the DCI offices in Uasin Gishu. Mr. Ondeng' Advocate who has been watching brief for the family of the deceased also supported the objection to vary bond terms for the 1st Accused.



4. The court herein made an order for the Children Officer's Report to be filed. But the same has not yet been done. The bond terms granted to the 1st Accused person were based on submissions that were made by her advocate and the prosecuting counsel. The terms and conditions can therefore only be varied when there is proof that circumstances have changed and that the 1st accused person has been complying with the terms granted. In the absence of the Children Officer's Report confirming that the children in question have no objection to meeting the accused person, it would be prejudicial and against their interest to order that the accused person can now come in contact with them. To minimize the number of trips that the 1st Accused is making to and from Uasin Gishu, the solution will be to set down this matter for hearing and conclude it within the shortest period possible.
5. The 2nd Accused person prayed that the court grants bond because he has 2 children and one of the children was born while he was in custody. He said that his mother has cancer of the leg, that his mother, wife and 2 children depend on him, and that his brothers are drunkards and not dependable.
6. The Bail Information Report stated that the 2nd Accused had a Kenyan Identity Card but it could not be provided immediately and the report recommended that there should be some caution on his release on this basis.
7. Initially, the 2nd Accused had made an application seeking that this court facilitates him to obtain a national identity card as he did not have one. Indication in the Bail Information Report that he now has an identity card and in consideration of the many alias names that are attributed to him confirms the suspicion of the investigating officer that the Accused person herein is not trustworthy and is therefore a flight risk. The Bail Information is not favourable for him to be released on bond and therefore the bail application is therefore dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 18TH DAY OF JANUARY 2024**

HON. LADY JUSTICE A. ONG'INJO
JUDGE

In the presence of: -

Etropia- Court Assistant

Mr. Ngiri H/B for Ms. Ngina for the State

No appearance for Mr. Magolo Advocate for the 1st Accused

No appearance for Ms. Atieno Advocate for the 2nd Accused

Mr. Ondeng' Advocate H/B for Mr. Lijoodi Advocate for the 3rd Accused present virtually

A1 present in person

A2 present in person

A3 present in person

HON. LADY JUSTICE A. ONG'INJO
JUDGE

Mr. Lijoodi Advocate: There is the issue of plea bargaining by my client. The same had been filed.

Mr. Ngiri: Plea bargain agreement has been filed. I pray for a mention date for the same. Ms. Ngina who is in conduct of the matter seeks for a date.



Mr. Magolo Advocate: We can take a mention date in two weeks.

Order: Mention on 15.2.2024 for plea bargain and further directions.

A2: My certificate of birth is in court. I pray that the same be released to me.

Order: Copy of certificate of birth in file to be released to the accused person to use in event Huduma Center visits the prison to register inmates for ID cards

HON. LADY JUSTICE A. ONG'INJO

JUDGE

