



**Okumbe v Republic (Miscellaneous Criminal Application
E154 of 2022) [2023] KEHC 740 (KLR) (14 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 740 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E154 OF 2022
RE ABURILI, J
FEBRUARY 14, 2023**

BETWEEN

JOSHUA ABONG'O OKUMBE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This file cannot remain open indefinitely.
2. The applicant came to court to forestall the impending arrest on a Friday as he had been summoned by DCI Siaya to report to the police station yet he was a resident of Nairobi County and therefore it was not possible for him to attend to the police summons.
3. After getting anticipatory bail, the applicant did report to the DCI Siaya and he was processed. He recorded a statement and the DCI informed him that he will be notified once a decision is made on whether to charge him or not.
4. The matter has been mentioned severally but the ODPP has not made any decision to charge the applicant; although the decision lies with them and not DCI. Mr Soita prosecution counsel is in court and he submits that the applicant shall not be arrested. That oral undertaking is not binding from a constitutional office.
5. In any event, arrest in itself is not unlawful and neither is the decision to charge the applicant with a cognizable offence.
6. However, in view of the fears expressed by the applicant before court that the DCI sought to arrest him when he was away and sick which then would have adversely affected his health, I hereby order that as the DCI Investigations file is not closed, the applicant shall remain on bond as granted by this court and in the event that a decision is reached to charge him with an offence, then he shall be notified



to attend court for plea taking without any arrest being carried out as he is a person from within the jurisdiction of this court and there is no evidence that he or at all intends to leave the jurisdiction of the court considering that the dispute is over family property.

7. Accordingly, these proceedings are closed. However, should the ODPP make a decision not to charge the applicant, this shall be communicated to him in writing to enable him apply to this court for refund of cash bail deposited into court. Bond as granted to the applicant is extended until the ODPP communicates to the applicant.
8. I so order.
9. File closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 14TH DAY OF FEBRUARY, 2023

R E ABURILI

JUDGE

