



**Republic v Karisa (Criminal Case 14 of 2019)  
[2023] KEHC 21655 (KLR) (3 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21655 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MALINDI  
CRIMINAL CASE 14 OF 2019  
SM GITHINJI, J  
AUGUST 3, 2023**

**BETWEEN**

**REPUBLIC ..... RESPONDENT**

**AND**

**TRAVIS CHARO KARISA ..... ACCUSED**

**RULING**

1. The accused herein, one Travis Charo Karisa alias Vikali faces a charge of murder contrary to section 203 as read with section 204 of the *Penal Code*. He was released on bond and had a surety. His advocate was Mr Atiang. On 25/1/2022 the accused did not attend court. Mr Atiang informed the court that his surety was a police officer and was unable to reach the accused. The surety had requested for warrant of arrest to issue against the accused. The court issued a warrant of arrest.
2. On 21/3/2022 the matter was again mentioned. Mr Atiang was absent as well as the accused. The prosecutor, Mr Mwangi said he had called the surety to attend and he was not in court. He applied for warrant of arrest to issue against the surety. The court issued a warrant of arrest against the surety.
3. The matter was mentioned the following day on 22/3/2022. The prosecutor informed the court that the previous day the surety had convinced the accused to attend court. On their way to court, the accused tried to commandeer the vehicle they were travelling in and they got involved in an accident. He was arrested. The surety was absent but the accused was present. The prosecutor stated that the surety intended to withdraw as a surety and the accused could be held in custody awaiting such withdraw. The court temporarily cancelled the bond.
4. The surety attended on 24/5/2022. He applied to withdraw as a surety. He alleged the accused absconded and placed him in trouble. The application was allowed and the surety was discharged.
5. On 15<sup>th</sup> of February, 2023 the accused filed an application seeking that he be re-admitted to bond terms. It's alleged that he is ill and his health is deteriorating; He failed to attend court as he was misled



by his surety who told him not to attend; when warrant of arrest was issued and he was arrested the surety withdrew; He has been in custody for more than six months and mandatory jail sentence for absconding is six months; He has a ready new surety and will attend court at all times required; He is not a flight risk; He won't tamper with evidence and has brought the application in good faith.

6. The prosecution opposed the application through a replying affidavit sworn by the investigating officer Pc Nicholas Koech. In brief he has stated how the applicant absconded and was later traced by surety who was a police officer. On 22/3/2022 when he was being brought to court aboard a Vitz registration No.KDE 554W, he grabbed the steering wheel and caused the vehicle to veer off the road. They were rescued by police officers from Ngerenya Police Station who were on patrol and the incident was booked vide OB No.04/22/3/2022.

Given his conduct he is said to be a flight risk.

7. The application was canvassed by way of written submissions and both parties filed their submissions.
8. The applicant herein had been released on bond. His conduct led to cancellation of the said bond. He failed to attend court and when warrant of arrest was issued against him he could not be traced. Warrant of arrest was as well issued against his surety who was a police officer. He managed to trace him. The reported incident of 22/3/2022 in which the applicant while being driven to court held the steering of the vehicle causing an accident, shows that he intended to escape. He does not deny the reported happenings of this day. When he was eventually availed in court, his bond was temporarily cancelled and the surety withdrew.
9. He says he was misled by the surety not to attend court; nothing can be further from the truth. The surety was a police officer who must be aware of the criminal procedure. Being a surety who had deposited his title deed he could not have taken the risk of losing his land by advising the accused not to attend court. What did he stand to gain by accused absconding, as a surety? The case was against the accused and not the surety. It's the accused who had an obligation to attend court on any given date by the court. He was obliged to take the dates keenly and keep the appointment. Such obligation cannot be shifted upon the surety whose duty was only to ensure the accused attended court.
10. The applicant is charged with a serious offence of murder. His conduct and character has demonstrated he is a flight risk. The court cannot risk giving him a second chance on bond. He cannot have his cake and eat it. The application lacks merit and is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT MALINDI THIS 3<sup>RD</sup> DAY OF AUGUST, 2023**

.....

**S.M. GITHINJI**

**JUDGE**

**IN THE PRESENCE OF; -**

