



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL MISCELLANEOUS APPLICATION E147 OF 2021

HUSSEIN MOHAMED ABDILLE..... APPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

The applicant **HUSSEIN MOHAMED ABDILLE** has moved this court by way of chamber summons application dated 26.4.2021. The said application is brought under sections 123, 123A of the Criminal Procedure Code, and Article 49(1)(h) of the constitution. The application seeks that the bond terms granted to the applicant on 22.10.2020 be reviewed lower to affordable levels. It is supported by the affidavit of one Maimuna Ibrahim Umar sworn on 26.4.2021.

Mr. Chacha for applicant submitted that the applicant has failed to meet the terms of bond as ordered by the Hon. Lady Justice Lesiit on 22.10.2020 that the applicant comes from Mandera, which is ravaged by drought and covid. It was pleaded that he is a young man who has missed out on 3 years. counsel pleaded for a cash bail of Ksh.60,000/=.

The prosecution opposed this application on the grounds that the Hon. Justice Lesiit had given sufficient terms of bond in view of the seriousness of the offence and the role played by the applicant. It was farther submitted that the applicant is likely to abscond and that the admission that applicant wants to relocate to Mandera goes against the orders of the Hon. Justice Lesiit that he should, upon release, leave the jurisdiction of the court. Counsel also noted the contradictions on the submissions of the applicant and the contents of the pre-bail report.

The court was urged to take Judicial notice of at least 3 recent events, the Kampala bombings, the government alerts, and the escape of the 3 terror convicts.

I have considered this application and the submissions of the 2 learned counsel for the parties. This application seeks that this court do revise the orders of the Hon. Justice Lesiit on terms of bail made on 22.10.2020. I have had the occasion to peruse the said ruling of the Honourable Judge. The same arguments that have been raised before this court were raised for consideration before the Hon. Justice Lesiit, who duly ruled on the same. No new issue or fact has been raised in the present application as to justify a revision of the terms of bond already set.

I do not find any merit in the applicant’s application dated 26.4.2021. I dismiss the same wholly. Orders accordingly

D. O. OGEMBO

JUDGE

15.2.2022.

Court:

Ruling read out (on-line) in presence of Mr. Kiarie for the state and Chacha Mwita for the accused.

D. O. OGEMBO

JUDGE

15.2.2022.

Chacha:

We seek leave to appeal.

Kiarie:

I leave it to court.

Court:

Leave granted as prayed.