



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**MISC. CRIMINAL APPLICATION NO. 95 OF 2019**

**EPHANTUS NYAGA NJAGI.....APPLICANT**

**VERSUS**

**DPP.....RESPONDENT**

**RULING**

1. The motor vehicle registration Number KCE 582K is registered in the name **EPHANTUS NYAGAH NJAGI**. The vehicle has been in the custody of **Directorate of criminal Investigation** (DCI) Headquarters, Nairobi following the institution of the **Kiambu High Court Criminal Case No. 9 of 2019**.

2. By notice of motion application dated 2<sup>nd</sup> August, 2021 *Mr. Njagi* seeks the vehicle be released to him. He deponed in his affidavit in support that he had continued to suffer economic loss because the detained vehicle is an income generating asset.

3. The application is not opposed by **Director of Public Prosecutions** (DPP). However, DPP does request that an order be issued restraining *Mr. Njagi* from disposing the vehicle and that the vehicle be released on condition the DCI be permitted to photograph the vehicle.

**ANALYSIS**

4. The vehicle is held by DCI in view of the ongoing Kiambu Criminal Case No. 9 of 2019. It is however clear that the continued retention of that vehicle by DCI is not material to the pending criminal case. The orders sought subject to the conditions requested by DPP will be granted.

**CONCLUSION**

5. In respect to the Notice of Motion dated 2<sup>nd</sup> August, 2021, I grant the following orders:-

- (a) Motor vehicle registration KCE 582K shall henceforth be released to **EPHANTUS NYAGA NJAGI** on condition that said motor vehicle's ownership will not change during the subsistence of Kiambu Criminal Case No. 9 of 2019.
- (b) The Directorate of Criminal Investigations is hereby permitted to photograph the said vehicle prior to its release.
- (c) There shall be no orders as to costs.

**RULING DATED AND DELIVERED AT KIAMBU THIS 16TH DAY OF NOVEMBER, 2021.**

**MARY KASANGO**

**JUDGE**

**CORAM:**

**COURT ASSISTANT: MOURICE**

**FOR APPLICANT : MR. GACHOKA**

**FOR DPP: MS. KATHAMBI**

**COURT**

**RULING DELIVERED VIRTUALLY.**

**MARY KASANGO**

**JUDGE**