



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISCELLANEOUS CRIMINAL APPLICATION E208 OF 2021

FRANK OCHOLA OGUNA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

This matter is now before the court for the application of the applicant, **FRANK OCHOLA OGUNA**, filed herein on 17.5.2021. The application seeks that this court reviews the terms of bond as already reviewed by the court and to give the applicant an alternative of cash bail. It is supported by the affidavit of the applicant in which it is deponed that the applicant, charged with the offence of robbery with violence contrary section 296(2), and was granted a bond of Ksh.1,000,000/= with 1 surety of a similar amount. That on applying for revision of the terms the Honourable Justice Ngenye revised the same to a sum of Kshs.500,000/= with 1 surety of a similar amount.

This application is therefore the 2nd application for revision the terms. It has been submitted by the applicant that the applicant has been unable to raise the surety and now prays for an alternative of cash bail. That there are also intentions of the complainant to withdraw this case.

The prosecution opposed this application on the grounds that there are no new circumstances that could make this court revise the orders of the Hon. Justice Ngenye who otherwise considered the similar submissions before making the ordered of revision. The court was urged to dismiss this application.

I have considered the application of the applicant and the submissions of the 2 sides. This application seeks that this court reviews further the orders of revision of the Hon. Lady Justice G. Ngenye issued on 28.11.2019. I have had the benefit of perusing the ruling of the Honourable Judge. It is clear that in the said application, the honourable Judge dealt with the following grounds;

- ***That mother of the applicant had an accident and could not feed herself.***
- ***That the complainant intends to withdraw the case.***
- ***That the bond was too high and the applicant could not afford the same.***

The Honourable Judge duly considered the issues raised and duly revised the ordered of the trial court as shown above. The issue therefore that comes to mind is whether in this present application, the applicant has raised any new issue that would persuade this court to revise the orders of 28.11.2019. With respect to the submissions of learned counsel for the applicant, all the issues raised in this application were materially and substantively considered by the Hon. Justice Ngenye in the ruling of 28.11.2019. There is therefore no justifiable reason for this court to revisit the same issues. I find no merit in the application of the applicant filed herein on 17.5.2021. I dismiss the same wholly. Orders accordingly.

D. O. OGEMBO

JUDGE

16.11.2021.

Court:

Ruling read out in open court in the presence of the application (Nairobi Remand), Mr. Omwenga and Ms. Joy for the state/respondent

D. O. OGEMBO

JUDGE

16.11.2021.