

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

MISCELLANEOUS CRIMINAL APPLICATION NO. E077 OF 2021

HASSAN YASINPETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This matter was placed before me for the purpose of giving directions, in view of the recent decision by the Supreme Court in *Francis Karioko Muruatetu & another vs. Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] (Koome CJ&P, Mwilu DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola SSJJ), with respect to mandatory sentences, where it was clarified that the decision, in *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), had arisen from proceedings relating to murder, under section 204 of the Penal Code, Cap 63, Laws of Kenya, and the position stated in the said decision was intended to apply only to mandatory sentences with respect to murder cases.

2. The Motion herein, dated 24th August 2021, filed herein on even date, is not founded on *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), for the applicant does not seeks review of sentence. His application is about being released on bond pending his trial in Kakamega CMCCRC No 469 of 2020, where he is charged with robbery with violence. He complains of being denied bond by the trial court.

3. Let Deputy Registrar cause this file to be allocated a date for mention before the Judge, for directions on the matter of the disposal of the Motion on bond pending trial.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS.....10th DAY OF
December..... 2021**

W MUSYOKA

JUDGE