



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**CRIMINAL PETITION NO. 54 OF 2019**

**LIBINUS ODUOR JUMA..... PETITIONER/APPLICANT**

**VERSUS**

**THE DIRECTOR OF PUBLIC PROSECUTION ..... 1<sup>ST</sup> RESPONDENT**

**THE COUNTY POLICE OFFICER KAKAMEGA ..... 2<sup>ND</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The applicant is seeking for extension of the interim orders issued by this court on the 30<sup>th</sup> May, 2018 in which the court granted the applicant herein bond pending arrest of Ksh. 50,000/= and barred the respondent from arresting the applicant unless there were written instructions by the Director of Public Prosecution after investigations in respect to the matter complained of were complete. The orders were issued on interim basis and are expiring today. The advocate for the applicant Mr. Ombito has thus sought for the extension of the orders.

2. The prosecution counsel Mr. Ng'etich has opposed the extension of the orders on the grounds that the applicant has not executed the bond granted to him. That this means that the interim orders were not necessary. Mr. Ombito on his part replied that the fact that the applicant has not executed the bond is irrelevant.

3. The court has considered the application and the objection thereto. The court granted the applicant bond of Ksh. 50,000/=. It is now two weeks and he has not executed the bond. Failure by the applicant to execute the bond granted to him means that he has not abided by one of the conditions of granting him the prayers that he sought from the court. That in itself has the implication that there was no urgency in granting the interim orders. The court thereby declines to extend the interim orders and the same are thus vacated.

4. The petition and the objection to be canvassed by way of written submissions. Advocates for the respective parties to file and exchange written submissions within two weeks.

Mention on 3<sup>rd</sup> July, 2019.

**Delivered, dated and signed in open court at Kakamega this 13<sup>th</sup> day of June, 2019.**

**J. NJAGI**

**JUDGE**

In the presence of:

Miss Kihamba holding brief for Ombito for petitioner/applicant

Mr. Ng'etich for 1<sup>st</sup> respondent

Miss Were for 2<sup>nd</sup> and 3<sup>rd</sup> respondents

Petitioner/Applicant - absent

Court Assistant - George