

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL CASE NO 36 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

LOYFORD MUNENE.....ACCUSED

R U L I N G

1. I have considered the submissions of Learned counsel.

2. This court had on 4/7/2019 denied the accused bond based on the Right of Appeal No. 71875 CPL Jimmy Kitivo. I note that in that Affidavit serious allegations of:-

a) Possibility of interfering with witnesses.

b) The accused being a flight risks.

3. I note that the defence was not given appropriate opportunity to respond to the allegations therein.

It has now occurred to the court that while it is not clear where the accused was between December, 2017 and May, 2018 (a period of five months), it is now clear that for the last 14 months, he has been studying at the Meru National Polytechnic undertaking a course. He therefore has a permanent place of abode. It is the sheer laziness of the investigations who for 14 months could not trace him there.

4. I entertain serious doubt as to the information contained in both the affidavit of CLP. Kitivo and th Probation Officer's Pre-Sentence Report. If the court knew what it now knows about the allegations of the accused being a flight risks, it would not have declined him bond.

5. Be that as it may, since what I am considering is not an application to review the order of denial of bond, I will say no more. However, I will grant the accused an opportunity at a later date when he so wishes to apply for variation of that order.

6. As for the application for him to be allowed to sit for his National examination, I do not see any reason to deny him the same. I am satisfied that he is a student of the Meru National Polytechnic and that he has been undertaking studies thereon for 12 months before he was apprehended.

7. I allow the application and direct that: -

a) The prison authorities do escort the accused to the Meru National Polytechnic between 8th July, 2019 and 26th July, 2019 to enable him take his KNEC exams.

b) That the Meru National Polytechnic does provide a safe and secluded room where the accused, under the watch of the prisons officer's will undertake his examinations.

c) However, the accused may not freely interact with members of the public save for his lectures, tutors and examination officials while at the vicinity of the said Meru National Polytechnic.

A.MABEYA

JUDGE

05/07/2019