



**REPUBLIC OF KENYA**

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

**MISCELLANEOUS CRIMINAL APPLICATION NO.40 OF 2019**

**(ORIGINATING FROM NANYUKI CM CRIMINAL CASE NO 957 OF 2018)**

**(IN THE MATTER OF AN APPLICATION FOR VARIATION OF TERMS OF BAIL)**

**ZABLON MACHARIA MAINA**

*(aka ANDREW KIRUNJA NKUBITU)*.....**APPLICANT**

**VERSUS**

**REPUBLIC**.....**RESPONDENT**

**R U L I N G**

1. The Applicant herein, **ZABLON MACHARIA MAINA**, is the accused in *Nanyuki CM Criminal Case No 957 of 2018* where he is facing five charges related to forgery. His case in the trial court has been proceeding. He has been in remand custody since 20/06/2018, more than a year and 5 months. He was granted bail by the trial court, but he has not been able to meet the terms imposed. Those terms were that he executes a personal bond of KShs 150,000/00 and provide 2 sureties in like sum.
2. The Applicant has applied to this court by an application dated 09/09/2019 for variation of those terms. The only variation he seeks is that instead of 2 sureties he provides only one.
3. The Republic has opposed the application by replying affidavit filed on 18/11/2019. But at the hearing of the application learned prosecution counsel stated that he would not have any problem with the Applicant providing only one surety. He left the matter to court.
4. I have considered the application. The Applicant said that one of his uncles is ready and willing to stand surety for him. He is unable to get a second surety.
5. I do not think that the Applicant's request in the present application is unreasonable. Given the nature of the charges he is facing, one surety should be sufficient.
6. I will in the circumstances allow the application. The conditions for bail imposed by the trial court are hereby varied such that the Applicant shall execute a personal bond of KShs 150,000/00 and provide one surety in like sum. It is so ordered.

**DATED AND SIGNED AT NANYUKI THIS 20<sup>TH</sup> DAY OF NOVEMBER 2019**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT NANYUKI THIS 21<sup>ST</sup> DAY OF NOVEMBER 2019**