



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

HIGH COURT CRIMINAL CASE NO. 1 OF 2015

REPUBLIC.....STATE

-VERSUS-

ROSE KERUBO ONDIEKI.....ACCUSED

RULING

On 16th March, 2016 the accused person applied for review of her bond terms. She pleaded that she be given a free bond.

Her bond terms have earlier been reviewed, twice, from Kshs.500, 000 personal bond with two sureties, to Kshs.300, 000 with one surety. Still because of her indigent status, she has still been unable to raise the bond terms as reviewed downwards.

The court will reconsider the application for further review of the bond terms to yet a lower level for affordability by the accused person.

The court is informed by **Article 49(1) (h)** which directs that ***“accused person be released on bond on reasonable conditions, pending a charge or a trial, unless there are compelling reasons not to be released»***

This is construed to mean that when the terms of bond are unaffordable to the accused person, the **"conditions"** envisaged by the constitution are not reasonable.

It is therefore incumbent upon the court to revise these conditions to an affordable level, thus making it reasonable to the accused person.

However, the test of what terms are reasonable varies from applicant to applicant.

Here below are revised terms:

- (i) The personal bond of Kshs. 100,000 with one surety of similar amount.**
- (ii) The accused to appear in court every 3 days until the case is heard and determined or until there are further orders of this case.**
- (iii) In default of appearance without a just cause, the bond shall be cancelled forthwith and the surety to be called to account.**

(iv) The next such mention will be on 9th May 2016.

Orders accordingly

Dated and delivered at Nyamira High Court this 7th day of April, 2016.

C. B. NAGILAH

JUDGE

In the presence of:

Bwonwong'a hold brief for Nyamwange for accused persons

Konga for the State

Mercy Court clerk