

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.95 OF 2008

REPUBLIC.....PROSECUTOR

VERSUS

SAMSON WAWERU KARIUKI.....ACCUSED

RULING

The application before me seeks a review of the bail terms given to the accused. The accused was granted bail by this court vide a ruling dated 19th March 2015. He was then required to make a cash bail payment of Ksh.1,000,000 and provide 2 sureties. The applicant sought a review of the terms on 22nd July 2015 on grounds that he was unable to raise the cash bail. The court was persuaded taking into consideration the economic circumstances of the applicant's family as presented by defence counsel, to remove the cash bail requirement.

In the present application the court has been told by the defence counsel that the accused has been unable to raise two sureties as required and can only raise one surety of Kshs.1 million. The prosecution has no objection to the review. In considering the application I have perused the record. I observe that the accused was first arraigned in court on 21st October 2008. His trial did not commence immediately as he made an application opposing his trial on account of the fact that he had been detained in police custody beyond the constitutional period. The issue was settled in a ruling dated 29th September 2009 by Ochieng J.

Subsequently the trial faced many challenges including transfer of the trial judge and adjournments occasioned by both the prosecution and the defence. The trial started *de novo* before me on 11th February 2014. It has continued to face challenges including absence of witnesses and change of defence counsel. These factors which the applicant is not responsible have contributed to considerable delay in the conclusion of the trial. I find it only fair to further review and vary the bail terms to enable the accused secure his release from custody pending the conclusion of his trial.

In the premises, I allow the application and order that the accused be released on the following conditions:-

- (1) He shall execute a personal bond of Kshs.1,000,000 and provide only one surety of similar amount.
- (2) He shall not interfere with prosecution witnesses.
- (3) He shall continue to attend court for his continuing trial as may be required by the trial court.

Orders accordingly.

Ruling, delivered and dated at Nairobi this 10th day of November, 2015

R.LAGAT-KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: Accused

.....: For State

..... For accused