



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
CRIMINAL CASE NO. 24 OF 2014

REPUBLIC.....PROSECUTOR

VS

KENNEDY MURIERA JOHN.....ACCUSED

RULING.

By this application, the accused Kennedy Muriera seeks to be released on bond/bail pending the hearing and determination of this case. The grounds upon which the application is made are inter alia, that bail is a Constitutional right; that he has a fixed abode; that the applicant was arrested at his home and never fled from home and is ready to abide by any conditions and terms that the court will give. Lastly that there are no compelling reasons to deny him bond.

The application was opposed and the Investigation Officer PC Riiru Kamanja of Laare Police Station swore an affidavit in reply. The Respondent deponed said that the offence was committed with others who are still at large and that if released he will interfere with witnesses because they hail from the same locality. The State Counsel Mr. Kierie also urged that the offence was still fresh and may compromise the accused security and that the likely sentence being severe he is likely to jump bail.

Whereas bond is a Constitutional right, yet it is not automatic because if there are compellable reasons to deny the accused bond, then the court will not grant it. The most important consideration before bond is granted is whether the accused person will turn up for trial or is he a flight risk.

In this case, the offence was committed on 25.2.2014 and the court was told that the applicant was arrested on 23.3.2014. Though the State Counsel stated that the applicant had fled from home, the Investigation Officer never deposed to that fact. The applicant stated that he was arrested at his home. If he was a flight risk, he should have fled between 25.2.2014 and 23.3.2014. Since others are still at large that would give the applicant reason enough to go into hiding. In my view, the State has not satisfied this court that the applicant is a flight risk.

It was also alleged that the applicant's life may be a risk since the offence was committed recently. However, it is now about one year since the offence was committed and tempers must subsided by now.

As to whether there will be interference with witnesses, it has not been demonstrated that the applicant has attempted to do so before his arrest. Having considered the affidavits and submissions made before me, I am satisfied that the prosecution has failed to demonstrate that there are any compelling reasons that would warrant the applicant being denied bail. In the result I grant the applicant bond in the following terms.

1. Cash Bail of Ksh.50,000/-
2. One surety of Ksh.300,000/-
3. To report to the nearest police station once a month till further orders of this court.
4. To be of good conduct during the pendency of this case in default the bond will be cancelled.

DATED, SIGNED AND DELIVERED THIS 3RD DAY OF FEBRUARY 2015.

R. V .P. WENDOHO

JUDGE

Mr. Igweta for accused

Mr. Mulochi for State

Jane Court Assistant

Accused

Present

R. P .V. WENDOHO

JUDGE