



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT MALINDI**

**HCR. NO.4 OF 2015**

**REPUBLIC.....PROSECUTION**

**VRS**

**SALIM MOHAMED.....ACCUSED**

**RULING**

This court delivered its ruling on 26/3/2015 and released the accused on bond. The accused seeks to have the bond terms reviewed as he has remained in custody from the time he was charged. Mr. Mouko, counsel for the accused submitted that the initial bond terms were given when the court did not know the circumstances of the case. Several witnesses have now testified. The accused was affected by the charges and he initially applied for the case to be adjourned. He is now recovering and the case has proceeded. The accused has been co-operative with the court.

Mr. Fedha, prosecution counsel, opposed the application. Counsel submitted that the evidence so far adduced is credible. The accused has not been co-operative and has caused the case to be adjourned. The applicant has not demonstrated any new circumstances. The accused should not be treated with any favours or specialty. Counsel would like the bond terms to be enhanced.

The underlying objective of bond is to secure the attendance of the accused during the mention or hearing of the case. Article 49 (h) of the Constitution entitled the accused to be released on reasonable conditions unless there are compelling reasons hindering his release. The existing bond terms are a personal bond of Two Million Kenya Shillings and two sureties of Five Million Kenya Shillings each. The accused is to deposit his passport and to report twice each month at the Malindi Police Station. Further, the case was to be mentioned once every month to confirm the presence of the accused.

The information listed seven witnesses and others to be called. So far eleven witnesses have testified. I do agree with the sentiments of the accused's counsel that initially the court was not aware of the circumstances of the case. The record shows that most of the civilian witnesses have so far testified. Mr. Fedha informed the court on 16/9/2015 that the main remaining witnesses are police officers. They include a firearm examiner who is currently at the C.I.D Institute, P. C Scolia and Corporal John Wambua. There is also Doctor J. K. Mulunga and chief Inspector Mwandewiro. I do not think that the accused can interfere with attendance of the remaining witnesses.

Although the accused was initially hesitant to have the matter proceed, it appears that he had now composed himself and allowed the case to proceed smoothly without any complaint. I do find that the circumstances of the case now calls for a review of the bond terms. I do proceed and review the bond terms. The initial bond terms are hereby set aside and replaced with a bond of Kenya shillings Five Hundred Thousand (Ksh.500,000/-) with one surety of similar amount. The accused can secure his release on the above bond terms.

Dated, delivered and signed at Malindi this 14<sup>th</sup> day of October, 2015.

**SAID J. CHITEMBWE**

**JUDGE**