



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
CRIMINAL CASE NO.51 OF 2012
REPUBLIC.....PROSECUTOR
VERSUS
ROSE KERUBO ONDIEKI.....ACCUSED

RULING

1. This is an oral application to review the terms of bond. On 21st March, 2013, the accused herein was released on Personal Bond of Kshs.500,000/ with two sureties of similar amount.
2. It is submitted that the accused comes from a poor family. That family can only raise one surety, not two.
3. Yet by 22nd September 2015, the accused is still unable to raise the bond terms.
4. I have reconsidered the application for review of the bond terms to a level of affordability by the accused person. **Article 49(1) (h)** says:

"An arrested person has right to be released on bond or bail on reasonable conditions, pending a charge or 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 affordable level, thus making it reasonable to the accused person.

The test of what terms are reasonable varies from applicant to applicant.

Here below are the revised terms:

- i. The personal bond of Kshs.300,000/= with one surety of similar amount***
- ii. The accused to appear in Court every 30 days until the case is heard and determined or until there are further orders of this case.***
- iii. In default of appearance without and just cause ,the bond shall be cancelled and the surety called to account.***
- iv. The next such mention will be on 5th November, 2015.***

Orders accordingly

Dated and delivered at Nyamira this 5th day of October, 2015

C. B.NAGILLAH

JUDGE

In the presence of

Anyona (absent) for the applicant

Malesi for the state / for the respondent

Mr. Omayio - Court Clerk