



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 45 OF 2013

ANTOINETTE UWINEZA ALIAS

MICHELIN UWABABYYI1ST APPLICANT

ALEXANDER KIOLE MUTIE.....2ND APPLICANT

KASSIM ODIWUOR ALIAS ODI3RD APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

This ruling relates to a review application for bail filed by the 1st and 2nd accused and an initial application for bail filed by the 3rd accused respectively. By my ruling dated 22nd July 2013 I denied the 1st and 2nd accused bail principally because I came to the conclusion that they posed a flight risk and were not likely to attend trial.

The 1st accused is a foreign national. At the time of her 1st application she had no passport, work permit or permanent residence. She states in her review application that her passport is awaiting collection at the Rwandan Embassy and that she shall provide Kenyan securities if released.

The 2nd accused in his review application dated 6th September 2013 states that he was arrested and charged merely because he was found in possession of a mobile phone belonging to the deceased. He depones in his supporting affidavit that he purchased the mobile phone from the 3rd accused. He further depones that he is not a flight risk and also gives particulars of his rural home and his temporary residence in Nairobi.

The application by the third accused is an initial application. In his application dated 5th September 2013, he stated that he was not a flight risk and will avail himself for trial if released on bail.

I have considered all three applications. The application in respect of the 2nd accused was conceded at the hearing by **Mr. Okeyo**, the learned Prosecution Counsel. He informed the court that the State was considering withdrawing the charges against the 2nd accused. I have, in the light of this submission and

the applicant's averments demonstrating his usual place of abode and permanent residence, formed the opinion that the 2nd accused does not pose any flight risk.

In respect of the 1st accused the record reflects that her counsel has in the past sought an order from the court to facilitate the collection of her passport at the Rwandan Embassy. She has also deposed in her supporting affidavit that she will attend court whenever required. I consider that the risks which I addressed in my earlier ruling are now minimal and can be taken care of by conditions to be imposed by the court.

The third accused was arraigned in court after the 1st and 2nd accused. There is nothing in the replying affidavit of **Ag. IP Joseph Gichuki** and the submissions of the prosecution counsel to explain why he was arrested later. In the absence of any averments to suggest any negative antecedents I will exercise my discretion to grant him bail.

In the result, all 3 applicants are granted bail on terms specific to each accused as follows:-

1st accused – Antoinette Uwineza Alias Michelin Uwababyi, shall

- i. Pay cash bail of One Million Shillings (Kshs.1Million) with two Kenyan sureties of KShs.1Million each to be approved by the Deputy Registrar of the court.
- ii. Shall collect and deposit her passport with the court within 24 hours of her release from custody.
- iii. Not leave the jurisdiction of this court without an order of the court.
- iv. Report to the Investigating Officer at Pangani Police Station once every two weeks until further orders of the court.
- v. Not communicate with or in any manner whatsoever interfere with any of the prosecution witnesses.
- vi. Attend court (before the Deputy Registrar) for the mention of this case once every month. The first such mention shall be on 9th of April, 2014.

2nd accused: Alexander Kiole Mutie, shall

- i. Execute a personal bond of KShs.500,000/- and one surety of like amount.
- ii. Provide evidence of his expected place of permanent abode and address upon release.
- iii. Attend the monthly mention of his case before the Deputy Registrar of the Court. The first such mention shall be on 9th April, 2014.

3rd Accused- Kassim Odiwuor Alias Odi, shall

- i. Execute a personal bond of KShs.1 Million with two sureties of like amount.
- ii. Provide evidence of his expected place of permanent abode and address upon release.
- iii. Not leave the jurisdiction of this court without an order of the court.
- iv. Report to the Investigating Officer at Pangani Police Station once every two weeks until further orders of the court.
- v. Attend the monthly mention of his case before the Deputy Registrar of the Court. The first such mention shall be on 9th April, 2014.

Orders accordingly.

Ruling delivered, dated and signed at Nairobi this 4th day of March, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

-: Court clerk
-: 1st applicant
-: 2nd applicant
-: 3rd applicant
-: For 1st applicant
-: For 2nd applicant
-: For 3rd applicant
-: For the State/respondent