



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 86 OF 2012

REPUBLICRESPONDENT

VERSUS

CHARLES GACHAU KAMOTHOAPPLICANT

RULING

The application before me seeks a review of my ruling dated 8th August 2013. In that ruling I denied the applicant bail to allow the investigation time to complete investigations and to track the key suspects whom the prosecution had demonstrated were closely linked to the accused.

In the current application the accused has asked the court to consider that he has been in custody for a considerable period and that the investigators have had sufficient time to complete investigations including tracking and arresting the key suspect in the case. In urging the application, learned defence counsel referred me to this court's decision in **Republic Vs. Dwight Sagaray & 4 others Nairobi Criminal Case No. 61 of 2012 [UR]** in which the court held *inter alia* that the investigation cannot shift its duty of tracking and arresting suspects to an accused person.

The State elected not to oppose the application. In submissions before court, learned prosecution counsel **Mr.Okeyo** acting on instructions of **Ms Gichuhi** who is the prosecution counsel in the case admitted that the investigation had to date failed to track and arrest the suspect in question. He only urged the court to impose conditions that would ensure the accused's attendance at trial.

I have considered the review application. I take the view that the investigation has had adequate time to complete investigations. As I have held before, an accused cannot be held in custody indefinitely on account of the fact that the investigative agencies were yet to track and arrest other suspects. See **Republic Vs Dwight Sagaray (supra)**. In this particular application, it is noteworthy in this case that the applicant was first arraigned in court on 18th October 2012. It appears from the submissions of the prosecution counsel that since then, the investigation have not made any progress in tracking other suspects. Such failure cannot be a ground for denying the applicant bail.

In the premises I admit the applicant to bail on the following conditions. He shall:-

1. Pay cash bail 1million or alternative execute bond of 1 million and 2 sureties of KShs.1 million each.
2. Deposit his passport with the court and not leave the jurisdiction of the court without leave of the court.
3. Report to the CID Head office Nairobi whenever required to do so.
4. Attend monthly mentions before the Deputy Registrar, the first of such mentions shall be on 17th

April, 2014.

Ruling delivered, dated and signed at Nairobi this 17th day of March, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk
..... : Applicant
.....: For the accused/applicant
.....: For the State/respondent