



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL CASE NO. 67 OF 2013

REPUBLIC.....PROSECUTOR

-VERSUS -

JOSEPH THOMAS OLANG.....ACCUSED

RULING

The applicant Joseph Thomas Olang in his notice of motion dated 25th February 2014 seeks for review of his bail or bond terms which he argues are excessive. The application was argued by Mr. Muia who was holding brief for Mr. Muoki the defence counsel.

The applicant was granted bond of Kshs.2,000,000/= with two sureties of the same amount. In the supporting affidavit, the applicant depones that his mother is not well off economically and that she has managed to get only one surety of the amount of bond required. The request by the applicant is to reduce the number of sureties from two to one.

The application was opposed by the state on grounds that the only reason for review given by the applicant was that the mother of the applicant is not economically empowered and that no evidence was adduced to show that the applicant has made any effort to meet the conditions of the bond. The State relied on **High Court Misc. Criminal Application no. 171 of 2012 at Nairobi**. In that case Ochieng, J in his reasoning that the court must not give very easy conditions stated:

“On the other hand, it is also important that the court should not impose such easy conditions that the accused person would not have any difficulty in meeting the same. If the conditions were very lenient, an accused person may be tempted to abscond, because he would not feel the pain of abandoning the bail or the security deposited in court. It is therefore important that the court determining an application for bail pending trial should conduct a delicate balancing act, so as to get the reasonable conditions for the particular case at hand.”

I agree with the ruling of the honourable judge that the conditions/terms of bond must not be made too easy for this may lead to the temptation to abscond. The terms set by the court must be reasonable and not excessive.

The offence the applicant is facing is one of a serious nature and carries death sentence. It is my

considered opinion that the terms given are neither excessive nor unreasonable. The applicant has not made any attempt to obtain a second surety. If he has done so, the information would have been included in the supporting affidavit.

When the court granted a bond with two sureties, it was guided by several factors which I need not give in this ruling. The applicant has failed to convince this court that the terms are either excessive or unreasonable.

All considered, the court will still retain two sureties but give due consideration to the plea of the applicant by reducing the amount of the second surety to a lower figure. The applicant has informed the court that he already has one surety.

The application for review is therefore allowed on the following terms:

The application for review is therefore allowed on the following terms:

1. That the applicant may be released on bond of Kshs.2,000,000/= with two sureties, one of Kshs.2,000,000/= and the other of Kshs.500,000/=. with two sureties one of Kshs.2,000,000/= and the second of Kshs.500,000/=.
2. That all other conditions set by the court in its ruling delivered on the 18th day of December 2013 are hereby applicable. December 2013 are hereby applicable. the 18th day of December 2013 are hereby applicable

F. N. MUCHEMI

JUDGE

Ruling dated and delivered on the 7th day of **May, 2014** in the presence of the applicant, defence counsel Mr. Muoki and the State counsel Ms. Magoma.

F. N. MUCHEMI

JUDGE

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JUDGE