



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 73 OF 2012

ELIKANAH KAGUNDA NJOROGE.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The application before me seeks a review of my ruling dated 16th May 2013. In that ruling I denied the applicant bail for the reason that he was likely to take flight and abscond trial. In the present application, the accused contests that he did not flee from the scene of crime to Kitale to evade arrest but that he went to his home which is in Kitale.

In this review application, the applicant has sworn a lengthy supporting affidavit attaching various official documents (namely his Birth Certificate, National Identity Card, School Leaving Certificate, Parents' National Identity Cards, and the Land Title Deed for their residential property in Kitale) to demonstrate that he was born, bred, schooled and lived in Kitale with his parents.

At the hearing of the application on 13th May 2014, **Mr. Nyangayo** for the applicant elaborated on the averments in the supporting affidavit and urged the court to find that the applicant was a resident of Kitale and that if released, he would continue to reside with his parents there and attend court whenever required. On the other hand, **Ms. Matiru** for the respondent submitted that there were no changed circumstances to warrant the court to review its earlier ruling. She submitted that the applicant committed the offence in Limuru and fled to Kitale which is outside the jurisdiction of the court.

I have carefully considered the application. **Article 49 (i) (h)** of the **Constitution** grants an accused the right to bail unless there are compelling reasons. The likelihood of absconding trial, if demonstrated to the satisfaction of the court, is a compelling reason. In the present application, I am not persuaded that the applicant will abscond trial if released. I therefore release him on bail on condition that he shall:-

- i. Pay cash bail of One million shillings (Kshs.1,000,000./-) and two sureties of similar amount.
- ii. Not leave the jurisdiction of the court without leave of the court.
- iii. Report to D.C.I.O. Kitale Police Station once every month.
- iv. Attend court before the Deputy Registrar for the mention of his case once every month. The first of such mentions shall be on 30th June, 2014.

Ruling delivered, dated and signed at Nairobi this 3rd day of June, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

-: Court clerk
-: Applicant
-: For the applicant
-: For the State/respondent