



REPUBLIC OF KENYA

Cases in Magistrate Courts

Criminal Case 37 of 2012

REPUBLIC.....PROSECUTOR

VERSUS.

KENNEDY OTIENO ALELA & 11 OTHERS.....ACCUSED.

RULING.

This is a ruling on a notice of motion dated 4.4.2013 brought under certificate of urgency by Advocate Omonde Kisera for all the accused persons.

The application seeks a review or reconsideration of the bond terms granted earlier with a view to reducing the value thereof to a level affordable by each of the accused persons.

The grounds for the application as set out on the face thereof are that:-

- a) *The terms herein have proven unaffordable by the accused persons*
- b) *The general value of land which is the available mode of security locally falls much below Kshs.3 million.*
- c) *The applicants seek bond valued at Kshs.500,000/= with similar surety.*
- d) *The applicants commit that they have no intention to abscond.*
- e) *It is a constitutional right to be released on bond on reasonable conditions pending the trial.*
- f) *There is no compelling reasons to warrant the bond terms at any high rate.*

The application is supported by an affidavit sworn by Mr. Omonde Kisera the Advocate, in which he has reiterated those grounds.

Miss Valery counsel for the Republic left the matter to court.

I have considered the application very carefully and my finding is that the same has no merit. In

setting the conditions this court did take into consideration that the accused persons indeed have a right to be released on bond on reasonable terms. It however did not escape this court's attention that the accused persons are charged with a serious offence and which carries a death sentence much as the same can be committed to life imprisonment. I have noted that it is not the accused persons who have sworn the affidavit in support of the application but an Advocate. The accused persons would have been in a better position to explain why they say the terms set are high. It will also be noted that the court had to set terms which will ensure that the accused persons turn up for trial. I am satisfied that the terms set earlier are reasonable and that no sufficient grounds have been shown to set them aside. Accordingly the application is dismissed.

E.N. MAINA
JUDGE.

Signed, dated and delivered at Homa bay this 3rd day of May 2013

In presence of:-
Miss Valery for the Republic
All 12 accused...for the accused/appellants
Eudice Okombo Dholuo Interpreter
Accused persons.