



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 84 OF 2014

LESIT, J.

REPUBLIC.....PROSECUTOR

-VERSUS -

DEDAN MBURU NJOROGE.....1ST ACCUSED

DICKSON LEWANGU LENANE.....2ND ACCUSED

RULING

1. The 1staccused person,**DEDAN MBURU NJOROGE** filed a Notice of Motion application dated 6thNovember 2014.
2. The 1staccused seeks bail pending the hearing and determination of his case. In the alternative he asks the court to make any other order it deems fit in the circumstances.
3. The application is premised on similar grounds namely:
 1. That the Applicant was arrested on 5th August, 2014.
 2. That the Applicant is in remand pending the hearing and determination of the matter herein.
 3. That the offence is bailable under the Constitution of Kenya.
 4. That the Applicant is a law abiding Kenyan Citizen.
 5. That the Applicant is ready and willing to abide by any bail/bond terms and conditions that the Court may grant.
 6. That the Applicant is not a flight risk.
 7. That there are no compelling reasons why the Applicant should not be enjoying his liberty pending the hearing and determination of this Criminal trial.
 8. That the Applicant will not in any way interfere with the investigations or the prosecution of this trial if released on bond or bail as investigations are complete.
 9. That it is only fair and just for the Applicant to be admitted to reasonable bail and/or bond on reasonable terms.
4. The 1staccused has sworn an affidavit in support of his respective application which I have considered.
5. The second accused did not file a formal application, he merely rode on the application by the 1st accused. Mr. Chege for him urged that the 2nd accused deserves bail as he is a Kenyan, was unlikely to abscond and that there are no compelling reasons to decline him bail.
6. The State has filed a replying affidavit which is sworn by the Investigating Officer PC Stephen

Oketch dated 16th December 2014. In that affidavit the officer deposes that the 1st accused, has not shown his fixed place of abode. He has not given his physical or post office box. He is a flight risk and may not be traced.

7. The 1st accused said he was a casual labourer in a kiosk which is not given. The Investigating Officer deposes that the 1st accused is also a flight risk that he may not be traced if released and may interfere with witnesses and therefore he should be declined bail.
8. I have considered the submissions by Mr. Muoki and Mr. Chege for the 1st and 2nd accused and Mr. Konga for the State.
9. It is now well settled that accused persons should be granted bail unless there are compelling reasons not to. The primary consideration being whether the accused is likely to attend at his trial, whether he is a flight risk and whether he is likely to interfere with witnesses.
10. The prosecution has raised the issue of the accused not showing their true place of abode where they could be found in case they jumped bail.
11. In this case the prosecution has not adduced any evidence that sheds any light as to the accused antecedents or character. However, from the investigation diary it is shown that the 1st accused claims to be a watchman at some unknown place while the 2nd accused is a freelance self-employed man with no known fixed place of operating business.
12. The accused persons face a very serious offence. The sentence for the offence is equally serious. In 1st accused affidavit he has not stated his place of abode. All he states is he is from a humble background. The 2nd accused swore no affidavit and his residence is unknown.
13. Having considered the application for bail by both accused, I find them unknown persons and consequently the temptations to abscond are very real. I find them a flight risk and consequently deny them both bail.

DATED AT NAIROBI THIS 23RD DAY OF DECEMBER, 2014.

LESIIT, J.

JUDGE.



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