



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL CASE E002 OF 2021**

**PROSECUTOR.....REPUBLIC**

**VERSUS**

**LOICE ACHIENG DALLAS ..... ACCUSED**

**RULING**

The applicant herein has pleaded with this court by way of application dated 25.1.2021, seeking that she be released on bail pending trial. It was submitted that the applicant is a Senior Government Officer who takes care of up to 13 children. That she is of poor health and is not a flight risk.

The prosecution side opposed this application on grounds that the witnesses are blood relatives of the applicant and were under her custody. That there is likelihood of interference with the witnesses if the applicant is released on bond at this stage. It was further submitted that immediately after the incident, the applicant fled her place of work, switched off her phone and was arrested much later on 7.1.2021 away at the Border with Uganda while intending to move out of the jurisdiction of the court. It was therefore contended that she is a flight risk.

I have considered the submissions of learned counsel for both sides. Article 49(i)(h) provides;

*“An arrested person has the right*

*- To be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.*

Amongst the issues that have been considered to be tantamount to compelling issues are likelihood of interference with witnesses (See *Republic Versus Joseph Wambua Mutunga & 3 others (2010)eKLR*). in our instant case, it has been submitted that some of the prosecution witnesses are close family members of the applicant. Some of the witnesses infact stay with the applicant. This fact has not been denied by the defence. The details of such relatives are contained in the probation officer’s report which has been filed in court.

It is this reason that persuades this court that it would be impractical to have the applicant released on bond with a guarantee that she will have no contacts with such witnesses. There would be the obvious possibility of the applicant interfering with such witnesses if she is placed on bail at this stage. This court is under duty to protect and preserve the integrity of the evidence that the prosecution may have in these witnesses and releasing the applicant on bail at this stage would run against this noble duty of the court. The resultant would be an affront to the cause of Justice.

In the circumstances, I dismiss the application of the applicant dated 21.1.2021. The applicant shall remain remanded in custody pending the hearing and taking of the evidence of the prosecution witnesses closely related to the applicant. The applicant shall be at liberty to renew her application for bail once the evidence of such witnesses are taken by the court. Orders accordingly.

**D. O. OGEMBO**

**JUDGE**

**29.3.2022.**

**Court:**

Ruling read out in court in the presence of the applicant, Mr. Ms. Ndiso for the accused and Ms. Akunja for the state.

**D. O. OGEMBO**

**JUDGE**

**29.3.2022.**

**Court:**

The hearing dates herein have passed. Now dates to be given. Hearing 18<sup>th</sup> May 2022.



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