



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL CASE NO. E019 OF 2021**

**REPUBLIC.....PROSECUTOR**

**-V/S-**

**i. KITI SHADRACK CHANO alias BEMBULA**

**ii. EMMANUEL CHAI SHADRACK alias BAMDII.....ACCUSED**

**R U L I N G**

1. The Accused persons, Shadrack Chano alias Bembula and Emmanuel Chai Shadrack alias Bamdii are charged with the offence of murder contrary to Section 203 as read with Section 204 of the penal code.
2. Particulars are that the accused persons on 23<sup>rd</sup> May 2021 at Kayanda village, Takaungu sublocation within Kilifi County jointly with others not before the court murdered Mathias Mwangambo Gambo.
3. Accused persons pleaded not guilty to the charge and a prebail/social inquiry report was called for by the court upon application for release of accused persons on bond. Prebail Report was filed on 23/11/2021 and served upon defence counsel.
4. Upon consideration of the pre-bail report for accused persons who are 4<sup>th</sup> & 7<sup>th</sup> brothers in a family of 8 respectively, I do find that it would be unsafe to order for their release on bond for reasons A1 has no fixed abode and there is no assurance he will attend court if and when he returns to Mwingi where it is alleged he was residing.
5. On the other hand A2, although the Chief of the area spoke well of him as a responsible person there are fears of a revenge attack. In the circumstances orders to release accused persons on bond are deferred until at a later stage when the same can be revisited in event circumstances change or tension reduces.

**DATED, SIGNED AND DELIVERED AT MOMBASA THIS 12TH DAY OF JANUARY, 2022.**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of:-**

Court Asst. - Ogwel

Ms. Kambaga for State

Ms. Nzamba Advocate for Accused 1 – No appearance

Ms. Losi Advocate for Accused 2 – No appearance

**COURT**

Ruling delivered, dated and signed in Court. Application pending email.

Mention – 8/02/2022 for fixing hearing date.

Notice to Ms. Nzamba & Ms. Lozi Advocates – Production Order to issue.

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**