



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITUI**

**(Coram: Odunga, J)**

**CRIMINAL CASE NO. E038 OF 2021**

**DIRECTOR OF PUBLIC PROSECUTIONS.....APPLICANT**

**VERSUS**

**TABITHA NJERI MAINA.....1<sup>ST</sup> RESPONDENT**

**PRAXIDES NALIKA MUSHESHI.....2<sup>ND</sup> RESPONDENT**

**ORDER**

1. I have considered the reasons advanced by the Prosecution and the Victim's family for opposing the release of the accused person's on bond pending their trial. According to them they have valid compelling reasons that justify the denial of the accused's release on bond.
2. The accused persons, on their part contend that the reasons advanced by the prosecution do not amount to compelling reasons to warrant their denial of enjoyment of their constitutional right to bail.
3. Without determining the merits of the respective cases, it is my view that this is a matter that requires a pre-bail report. Whereas, it is not in every case that bail is opposed that such a report is to be availed and each case must be determined on the basis of its own circumstances, occasions do arise when the Court may, on its own motion or upon prodding by either of the party direct that such a report be availed. The purpose of the report is not to dictate to the Court whether or not to release the accused to bond but simply to assist the Court in determining whether or not the accused ought to be so released and if so on what terms. The Court is however not bound by such a report.
4. Accordingly, I hereby direct the probation officer to undertake the appropriate inquiries from all the parties concerned and file a report to this Court.
5. Orders accordingly.

**RULING READ, SIGNED AND DELIVERED IN OPEN COURT AT MACHAKOS 24<sup>TH</sup> DAY OF FEBRUARY, 2022**

**G V ODUNGA**

**JUDGE**

**In the presence of:**

**Mr Wairegi for the 1<sup>st</sup> accused.**

**Ms Wanjiru Njihia for the 2<sup>nd</sup> accused**

**Mr Wathome for the family**

**Mr Ngetich for the State**

**CA Susan**