



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MAKUENI**

**HCCR NO. E004 OF 2020**

**REPUBLIC ..... PROSECUTION**

**-VERSUS-**

**DOMINIC MUTINDA MUSOMBA.....ACCUSED**

**RULING**

1. The accused person **Dominic Mutinda Musomba** who stands charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code (Cap 63) has orally asked to be released on bond/bail on reasonable terms through his counsel Mr. Kioko.
2. The State through Prosecuting Counsel Ms. Gakumu do not oppose the release of the accused person on bail/bond as they have not received any adverse report, but the Prosecuting Counsel has asked that the terms of bail be commensurate with the nature of the offence charged.
3. Under Article 49(1) (h) of the Constitution of Kenya 2010, every arrested person has a right to be released on bond/bail on reasonable terms. The said Article provides as follows –

**“49(1) An arrested person has the right –**

*(b) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released”*

4. Courts have held that the primary responsibility of demonstrating compelling reasons for denial of bond or bail rests with the prosecution. Courts have also taken into account other factors that have come into their knowledge from any other persuasive sources like Probation Officer’s reports in determining whether or not to grant bail.
5. In the present case, the prosecution has no objection to the accused person being released on bond bail. On my part from the information availed to the court at this stage, I find no compelling reason to deny the accused person release on bond or bail.
6. I thus allow the application of the accused and order as follows:-

- 1) *The accused herein **Dominic Mutinda Musomba** may be released on signing his own bond of **Kshs.100,000/=** with **one surety of similar amount.***
- 2) *In the alternative he may be released on payment of **cash bail of Kshs.200,000/=.***
- 3) *He will not interfere with prosecution witnesses.*
- 4) *He will attend every mention and the hearing of the case until it is finalized.*

**Delivered, signed & dated this 11<sup>th</sup> day of February, 2021, in open court at Makueni.**

.....

**GEORGE DULU**

**JUDGE**