



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL APPEAL NO. E003 OF 2021

REPUBLIC.....PROSECUTOR

VERSUS

1. HENRY NGINGO MWACHALA

2. MATHEW MAGEDA MWACHALA

3. JONES MWABINGU MUNGEREZA

4. RASHID SALIM SALIM.....ACCUSED

RULING

1. Henry Ngingo Mwachala, Mathew Mageda Mwachala, Jones Mwabingu Mungereza and Rashid Salim Salim are jointly 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 the 10th day of March 2021 at Ngilinyi village, in Wundanyi Sub County within Taita Taveta County murdered Francis Mwakio Mwakitoi.

3. The accused persons pleaded not guilty and the court called for a Prebail report. The Probation Report was filed on 17th May 2021 and it was recommended that accused 1, accused 2 and accused 3 may be released on bond. However Probation officer found that accused 1 Rashid Salim Salim was a flight risk as he does not have a good relation with his siblings and there will be not family support during trial and follow up cases to his family went unanswered. It was also found that community where he had fixed abode were hostile to his return and hi safety was not guaranteed. He was also said to be a known bhang smoker and drunkard. He also lives on a border lower to Tanzania where he also has relations and he might flee.

4. In the circumstances of the Prebail Report accused 1, accused 2 and accused 3 may be released on bond of Kshs. 500,000/= with surety of similar amount each. Accused 4 will however remain in custody pending hearing and determination of the charge against him.

JUDGEMENT DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 25TH DAY OF JUNE, 2021.

HON. LADY JUSTICE ADWERA ONG'INJO

JUDGE

25.6.2021

In the presence of:-

Ogwel – Court Assistant

Ms. Karanja holding brief Chirchir for State

Mr. Gitahi Adv. for accused

Accused 1 - Henry Ngingo Mwachala

Accused 2 - Mathew Mageda Mwachala

Accused 3 - Jones Mwabingu Mungereza

Accused 4 - Rashid Salim Salim

HON. LADY JUSTICE ADWERA ONG'INJO

JUDGE

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