



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL CASE NO. 5 OF 2020

REPUBLIC.....DPP

VERSUS

JOHN BOSCO MUTWIRI MUNGATHIA.....1ST ACCUSED

SAMUEL KAUME MUNGATHIA (ALIAS SAMMY).....2ND ACCUSED

KEVIN MUGAMBI MUNGATHIA.....3RD ACCUSED

RULING

The accused persons herein are charged with the offence of murder contrary to section 203 as read with section 204 of the penal code.

The particulars are that the accused persons on the night of 1st and 2nd January 2020 at Amatu village Mikinduri in Tigania Central Sub-county within Meru County jointly with others not before the court murdered Grace Mwari Anthony.

The accused persons were arraigned in court and the information read to them on 20th January 2020 wherein they pleaded not guilty to the charge against them. Their Advocate Ms Kinoti applied that they should be released on reasonable bond terms pending their trial. Ms Mbithe for the state however, said that they were opposed to the accused person being released on bond and that they were in the process of filing an affidavit to that effect.

This court called for Pre-bail reports in respect to the accused persons and the same was duly filed on 6th February 2020. I have considered the Pre-bail reports which are in favour of the accused persons being released on bond. I have also considered the Accused persons affidavits in response to the prosecutions affidavit sworn by Detective Oliver Nabonwe and am of the considered opinion that annexure to the accused persons affidavit in regard to the conduct of a prosecution witness Mary A. Mungathia raises suspicion as to her objection to the release of the accused persons on bond. It has not been denied that immediately the accused persons were arraigned in court she issued instructions that affected the estate of a deceased person which the accused persons also have an interest. Her action prejudices her complaint that her life would be in danger if the accused persons will be released on bond.

This court therefore orders that the accused persons maybe released on bond of Ksh. 500,000/- each with a surety of a similar amount on condition that they attend court as and when required for mention and hearing. They are also hereby ordered to ensure that they do not interfere with the witnesses that the prosecution intends to call or prejudice the trial herein in any way. In event that the terms of the bond are breached the accused persons shall risk being remanded in custody until the trial is concluded.

HON A. ONG'INJO

JUDGE

RULING DELIVERED, DATED AND SIGNED IN COURT ON 27TH DAY OF FEBRUARY 2020.

In the presence of :

C/A: Kinoti

Accused:- Present in person

State: Ms Mbithe for state. Muriera Advocate holding brief for Mutembei for accused persons.

Mention 26.3.2020 in court 1 for directions.

HON A. ONG'INJO

JUDGE