



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NANYUKI**

**CRIMINAL NO 6 OF 2020**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**1. MARTIN MUTUMA**

**2. VICTOR MURITHI**

**3. PHILEMON KASAINA.....ACCUSED**

**RULING ON BAIL**

1. The three Accused persons herein, **MARTIN MUTUMA, VICTOR MURITHI** and **PHILEMON KASAINA**, are charged with *murder* contrary to **sections 203** and **204** of the *Penal Code*. It is alleged in the information dated and filed in court on 07/07/2020 that in the night of 20/06/2020 at *Riverside* area of *Timau Township* in Buuri Sub-county within Meru County, jointly with others not before the court, they murdered one **BRIAN KIMATHI**.

2. On 15/07/2020 the Accused persons pleaded not guilty to the charge. Their trial is scheduled for 8<sup>th</sup> and 9<sup>th</sup> December 2020. In the meantime they have, through their learned counsels, asserted their constitutional right to bail pending their trial. The Republic has no objection.

3. Bail pending trial (for all criminal offences) is now a constitutional right that will be denied only for compelling reason; and further, again by constitutional edict, any condition that the court might impose for such bail must be reasonable. For all this see **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.

4. I have perused the copies of witness statements and documentary evidence supplied by the prosecution to the Accused persons and to the court. I find no compelling reason therein to deny them bail. I have also noted that the 2<sup>nd</sup> Accused, Victor Murithi, is a minor who is just shy of 18 years. He is said to have been born on 17<sup>th</sup> August 2002; but I note that there is now in the court record his original birth certificate. It shows he was born on 19<sup>th</sup> September 2002.

5. I will in the circumstances admit the Accused persons to bail upon the following terms-

a. The 1<sup>st</sup> and 3<sup>rd</sup> Accused persons shall be admitted to bail upon their own personal cognizance in the sum of KShs 500,000/00 plus one surety each (different) in like sum.

b. The 2<sup>nd</sup> Accused shall be released upon one surety executing a bond of KShs 300,000/00. Once he attains majority, he shall additionally execute his own bond of KShs 300,000/00. It is so ordered.

**DATED AND SIGNED AT NANYUKI THIS 20<sup>TH</sup> DAY OF JULY 2020**

**H.P.G WAWERU**

**JUDGE**

**DELIVERED AT NANYUKI THIS 23<sup>RD</sup> DAY OF JULY 2020**