



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO 28 OF 2020**

**REPUBLIC.....DPP**

**VERSUS**

**PATRICK KAMAU NG'ANG'A.....1<sup>ST</sup> ACCUSED**

**MARTIN KAMANDE NYOIKE.....2<sup>ND</sup> ACCUSED**

**RULING**

1. **Patrick Kamau Ng'ang'a** and **Martin Kamande Nyoike** are both charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. They both denied the charge and are awaiting their trial.

2. There are two applications before me for consideration. The application dated 13<sup>th</sup> August 2020 is filed by the Accused seeking that they be released on bond or bail pending trial. The second application is dated 20<sup>th</sup> August 2020 filed by the Director of Public Prosecution (DPP). By that application DPP seeks that the Accused be not released on bail pending trial.

3. The Accused confirm that before their arrest they resided at Zimmerman Estate. Indeed, the pre-bail probation states their families reside in that Estate. DPP bases the application dated 20<sup>th</sup> August 2020 on the ground the witnesses for the prosecution are neighbours and are well known to the Accused persons.

4. Article 49(1) (h) of the Constitution provides that:

*“An Accused person has the right ....*

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

5. The allegation by DPP is that since the prosecution witnesses are well known to the Accused and they reside in the same neighbourhood of the Accused there is indeed the danger of interference with those witnesses before the commencement of the trial. In my view that possibility of interference with the integrity of the trial is a compelling reason to deny the Accused bail. The Bail application can be considered after those witnesses have testified.

6. Accordingly, the application dated 13<sup>th</sup> August 2020 is declined. A fresh application for bail can be considered after the Civilian Witnesses of the prosecution have testified. To that end the Notice of Motion dated 20<sup>th</sup> August 2020, by DPP, is granted.

**SIGNED AND DELIVERED VIRTUALLY THIS 17<sup>TH</sup> DAY OF NOVEMBER 2020.**

**MARY KASANGO**

**JUDGE**

17<sup>th</sup> November 2020

Before Justice Mary Kasango

C/A - Kevin

Accused – Patrick Kamau Ng’ang’a

For the Applicants – Mr. Njehu, Present

For the Respondent - Christine Khathambi

**COURT**

Ruling virtually delivered in their presence.

**MARY KASANGO**

**JUDGE**