



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO 87 OF 2016

SIMON NGOTHO MUCHINA..... 1ST ACCUSED

GEORGE MURAYA.....2ND ACCUSED/APPLICANT

VERSUS

REPUBLIC.....PROSECUTOR

R U L I N G

1. The 2nd Accused **George Muraya** is charged, together with his co-accused **Simon Ngoto Muchina**, with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. They both pleaded not guilty and although their trial commenced as far as March 2019 it has not yet concluded. The prosecution has yet to close its case.

2. Before court is the Notice of Motion dated 1st July 2020 filed by George Muraya, the 2nd Accused. The 2nd Accused seeks to be released on bail pending trial. The second Accused has stated in that application that he has a right to bail as provided under **Article 49 1(h) of the Constitution**. There is before court a probation report which is favourable to the 2nd Accused being granted bail. The 2nd Accused has family members who also support his release on bail. Similarly, the victim's family are not averse to 2nd Accused being granted bail.

3. Although the 2nd Accused has made the present application in my perusal of the court file I found that both Accused were granted bail on 15th May 2015. The court then stated this in its Ruling of that date:

“I find no compelling reason to deny the Accused persons (both Accused) bail. They will each be admitted to bail upon their own cognizance in the sum of KSh.100,000 and one surety in like sum.”

4. Both Accused having been granted bail in the above terms there is no basis to consider the 2nd Accused's application.

5. Accordingly Notice of Motion dated 1st July 2020 is for those reasons dismissed.

SIGNED AND DELIVERED VIRTUALLY THIS 18TH DAY OF DECEMBER 2020.

MARY KASANGO

JUDGE

18th December 2020

Before Justice Mary Kasango

C/A - Kevin.

First Accused – No appearance

Second accused - Present

For both Accused - Mr. Munene

For the State - Mr. Kasyoka

COURT

Ruling virtually delivered in their presence.

MARY KASANGO

JUDGE