

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL CASE NO. E014 OF 2020

REPUBLIC.....PROSECUTOR

~VS~

1. MWENYEHERI MGELE JEFFA

2. SHADRACK NYIRO RASI

3. BERNARD MASAI MWANGKA.....ACCUSED

R U L I N G

1. The accused persons Mwenyeheri Mgele Jeffa, Shadrack Nyiro Rasi and Bernard Masai Mwangeka are jointly charged with the offence of Murder Contrary to Section 203 as Read with Section 204 of the Penal Code Chapter 63 of the Laws of Kenya.

2. Particulars are that the accused persons on the 19th of October, 2020 at Kiwegu village in Vanga Location, Lungalunga Sub-County within Kwale County, murdered MWALEWA JEFF. The 3 accused persons pleaded not guilty and their advocates applied that they be released on reasonable bond terms.

3. This court called for prebail Report which was filed on 14/12/2020. From the pre-bail report, it has been recommended that A3 be released on bond but at the same time the report reveals that he has lose family ties being that he doesn't stay with any of his 2 surviving wives and has not taken responsibility over his children as a father. The report also indicates that he is restless soul and is most of the time on business trips between Tanga, Kwale and Nairobi. Although he converted to Islam while in Prison Custody while serving sentence for the offence of defilement he rarely practices Islamic teachings & tradition.

4. These indications coupled with the fact that the witnesses have fled from their homes in fear makes this court hesitant in granting bond to Accused 3.

5. In regard to Accused 1 the prebail Report is not favourable and the same is also declined. The deceased was his elder brother and the witnesses are his relatives and the likelihood of interference with witnesses who have already filed their home due to fear is very high. I decline to grant bond.

6. Concerning Accused 2, he is said to be Assistant Pastor of his church but the Report indicates that even his family is apprehensive on the attitude the victims family will have on him upon being released on bond. This may be because the death of the deceased occurred very recently and the family members are still in mourning and will require sometime to heal gradually.

7. In the circumstances, the application for release of Accused 2 is also declined for now. Same may be revisited at a later date and particularly after the evidence of crucial witnesses have been taken.

8. Orders accordingly.

Dated, signed and delivered online by MS TEAMS, this 16th day of December 2020

HON. LADY JUSTICE A. ONG'INJO

JUDGE