



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.27 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

BERNARD KOSKEI.....1ST ACCUSED

WILSON K. RONO alias MBERIA.....2ND ACCUSED

BERNARD K. LANGAT.....3RD ACCUSED

RULING

1. In this case the three accused persons stand charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence being that on 2/7/2019 at Jambo Kenya trading centre in Kipkelion sub-county within Kericho County jointly murdered Justus Too *alias* Titus Too. They have denied the charge.

2. All of them filed applications for bond. The 1st and 2nd accused through their counsel Bett & Co. Advocates filed an application dated 16/7/2019 while the 3rd accused through counsel Ochang & Co. filed bond application also dated 16/7/2019. Both applications were filed pursuant to Article 49 of the Constitution of Kenya 2010 and s.123 (3) and 124 of the Criminal Procedure Code (Cap.75).

3. In each of the applications grounds supporting the same were given and these were that they would not cause a threat to society if released and there were no compelling reasons for denial of bail. Each of the applications was filed with a supporting affidavit. Supporting affidavits amplified the grounds of the application.

4. The State did not file any response to the two applications. On 22/7/2019 when plea was taken the State through Assistant Director of Public Prosecution, Mr. Ayodo stated that they were not opposing the applications as they had no compelling reason to do so.

5. Under Article 49 of the Constitution of Kenya 2010, every arrested person has a right to be released on bond/bail unless there are compelling reasons not to be so released. The relevant part of the Article states as follows-

“49 (1) An arrested person has the right –

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

(2) a person shall not be remanded in custody for an offence if the offence is punishable by a fine or imprisonment for not more than 6 months.”

6. It follows from the above Constitutional provisions therefore that every arrested person for an offence which is punishable by a fine only or by imprisonment for not more than 6 months should be released on bail/bond. However, for those charged with all other offences, they are to be released on bond/bail on reasonable conditions, provided there are no existing compelling reasons not to be released.

7. The accused persons herein were charged with murder whose maximum sentence is death. Therefore, they have a right to be released on bond/bail on reasonable conditions, provided there are no compelling reasons to deny them that right. The State has indicated that they do not have any such compelling reasons. I myself, find no compelling reasons to justify denial of their right-bond/bail.

8. I therefore, allow the two applications, and order as follows-

1. Each of the accused persons may be released on signing his own bond of kshs.200,000 with one surety of similar amount.
2. Alternatively, each accused person may be released on payment of cash bail of kshs.100,000/-.
3. They will not interfere with investigations or prosecution witnesses.
4. hey will attend every mention of the case and hearings until the case is finalised.

Dated and delivered at Kericho this 26th July 2019.

George Dulu

JUDGE