



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 43 OF 2018**

**REPUBLIC.....DIRECTOR OF PUBLIC PROSECUTIONS**

**VERSUS**

**VINCENT INGOSIA OSORE.....1<sup>ST</sup> ACCUSED**

**BONIFACE ONDULA WERE.....2<sup>ND</sup> ACCUSED**

**RULING**

1. The accused persons herein are charged with murder. On 23<sup>rd</sup> October 2018 I ordered their release on bail pending trial. I fixed the bond sum at Kshs. 400, 000.00 for each one of them, with two sureties of like amount.
2. They have come back to court through a Motion dated 7<sup>th</sup> April 2019. They seek review of their bond terms. They argue that the terms set by the court were harsh and excessive. They state that they cannot raise the amounts, nor get guarantors of like amount.
3. It would appear that the accused persons have been unable to raise the bond. They are not required to raise money and pay the same in court. They are merely required to sign documents binding themselves to pay that money in court should they breach the terms of their bond.
4. However, I am alive to the fact that release of accused persons on bond is a constitutional right. It affords the accused an opportunity to be free pending trial. I am alive to the accused persons' right to presumption of innocence until proven guilty. Pre-trial incarceration can be a grave injustice should they be ultimately found innocent, and yet there is no provision for recompense should that happen.
5. I am told that the accused persons are labourers and are, therefore, not in a position to obtain sureties for the amount imposed as bond.
6. To actualise the right to be presumed innocent until proven guilty and equal treatment in the eyes of the law, I am persuaded to review the bond terms. The same are hereby reviewed, so that the accused may be released from custody pending trial upon their signing a bond each of Kshs 200, 000. 00 with one surety of like amount. It is so ordered.

**DELIVERED DATED AND SIGNED AT KAKAMEGA THIS 26<sup>th</sup> DAY OF July 2019**

**W MUSYOKA**

**JUDGE**