



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 4 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOEL MUTHUI MWASYA.....ACCUSED**

**RULING**

1. **Joel Muthui Mwasya**, the Accused/Applicant, seeks to be released on bail pending trial. The application is premised on grounds that he is entitled to reasonable conditions of bail under **Article 49(1)** of the **Constitution**. That there are no compelling reasons why he should not be released on bail; he is a young man aged 27 years old; the prison is not favourable to a person of his age; he has a home and domestic animals therefore he needs to protect his property.

2. When the matter came up for hearing learned State Counsel **Mr. Mamba** told the Court that there were no compelling reasons to deter the Applicant from being released on bail.

3. The primary consideration in determining whether or not an Accused should be released on bail is whether the person will turn up for trial (**See Watoro vs. Republic (1991) KLR 220**).

There are also other factors that the Court should consider namely:

- The nature of the charge.
- Strength of the Prosecution's case.
- The likelihood of the Accused to interfere with witnesses.
- Gravity of the punishment in the event of a conviction. (**See Republic vs. Danson Mgunya & Another (2010) eKLR**).

4. The charge is grave as it attracts death sentence upon conviction. The affidavit deponed by the Applicant is silent on whether he will turn up for trial. He has only addressed the issue of his arrest and how he intends to reorganize his life and get married.

5. In the premises, I grant him bail of **Kshs. 2 Million** with surety in a similar sum.

6. It is so ordered.

**Dated, Signed and Delivered at Kitui this 15<sup>th</sup> day of February, 2018.**

**L. N. MUTENDE**

**JUDGE**