



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA

HCCR NO.58 OF 2015

REPUBLIC.....STATE

-VERSUS-

SAMWEL RIOGI MOKAYA.....ACCUSED

R U L I N G

On 29th September, the accused person, **Samuwel Riogi Mokaya**, through his Counsel then holding brief for Mr. Bigogo applied for bond for his client, to be released pending the hearing and determination of his trial.

Earlier on, the accused had been charged for murder contrary to **Section 203 as read with Section 2014 of the Penal Code**. The particulars thereof were that on the 1st May 2015 at Sengera 2 village, in Masaba North District within Nyamira County, murdered **CYNTHIA BOCHERE OGUORA**.

He pleaded not guilty to the said charge. He now awaits his trial.

The State prosecutor asked for time to respond to the said application for bond. As the court writes this ruling, I can confirm that no such response has been forthcoming. However, earlier on, the court called for pre-bail assessment report. This report dated 9th October, 2015 has duly been filed in court.

Therefore in the absence of the prosecutor's response, this court will be guided by this report, to grant or not grant bond to the accused person.

This court, however alive to the fact that bond/bail is a constitutional right. **Article 49 (i) (h)** is very clear. ***"An arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released."***

The accused person is aged 65 years. He has two wives with a total of ten (10) children. According to the area assistant chief the accused a respected person.

The community members agree with the sentiments expressed by the assistant chief. The immediate victim's family, the accused's first wife are unwilling to accept the accused home. The 2nd wife, however, are not objecting to his being released on bond.

Accordingly, there being no compelling reasons the court will release not/to release the accused on personal bond of Kshs.500,000 with two sureties of similar amount or the following conditions:-

1. **To attend court for mention of his case every month until the completion of his case or by**

court order.

2. Any one default, the bond to be cancelled forthwith and the sureties to be made to account.

3. The first such mention to be on 25th February, 2016.

It is so ordered.

Dated this 27th day of January, 2016.

C.B. NAGILLAH

JUDGE

In the presence of:-

Bigogo for the applicant

Konga for the State

Mercy- Court Clerk