



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.108 OF 2014
REPUBLIC.....PROSECUTOR

VERSUS

ANDREW ONDIEK NYABWANGA *alias* MOI OBWOCHA.....ACCUSED

RULING

1. The accused person herein is charged with the offence of **Murder** contrary to **Section 203** and read with **Section 204 of the Penal Code**.
2. On 20th November 2014, the accused pleaded not guilty to the charge and was on 17th March 2015 granted bond pending his trial on the following terms:-
 - a. **Bond of Ksh.500,000/= with two sureties of similar amount.**
 - b. **During the period of his trial the accused person shall not leave the jurisdiction of this Honourable Court without the written consent of the Deputy Registrar.**
 - c. **The accused to attend mention before the Deputy Registrar once after every 30 days with the first such mention being on 17th April 2015 and thereafter at such dates to be fixed by the said Deputy Registrar.**
3. On 30th **October 2015**, the accused sought a review of the said bond terms while claiming that he was unable to raise the 2 sureties as ordered by the court and could only raise 1 surety. The accused's application for review was not opposed by the State through Miss. Boyon who stated that she left the entire decision to the Court's discretion.
4. The underlying objective of bond is to secure the attendance of the accused during the mention or hearing of the case. **Article 49 (1) (h)** of the **Constitution** provides that the accused may be released on bond on reasonable conditions unless there are compelling reasons to deny him bond. The existing bond terms are a personal bond of Kshs.500,000/= with 2 sureties of similar amount.
5. The charge the accused faces is that of Murder which carries a death penalty of death sentence should the accused be found guilty. In a capital charge such as the one the accused faces, the likelihood of an accused person jumping bail is normally higher in view of the anticipated death sentence in the case the guilt is established.
6. It is for the above reasons that courts normally grant bond but on slightly stiffer terms to ensure court attendance. At this point in time, the hearing of the case against the accused has not

commenced even with one single witness and it is therefore difficult to gauge the strength or the weight of the prosecution's case against the accused as a means of determining the most appropriate bond terms. However, the charge sheet discloses that the prosecution will be calling a total of 6 witnesses in support of its case.

7. I find that the bond terms earlier granted to the accused were quite reasonable and find no reasons to interfere with the court's findings at this point in time.
8. The upshot of my ruling is that the accused's application for a review of the bond terms is hereby dismissed.

Dated, signed and delivered this 22nd day of January 2016

HON. W. OKWANY

JUDGE

In the presence of:

Miss. Mochama for the State

Accused in person

Omwoyo: Court clerk