



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.15 OF 2012

REPUBLIC - - - PROSECUTOR

VERSUS

EVANS ONG'OU OBWAYA - ACCUSED

RULING

1. The accused person herein, is charged with the offence of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**.
2. The particulars of the charge are that on the night of 29th and 30th January 2012, at Kiongany Sub-location in Marani District within Kisii County, jointly with others not before the court, murdered **SAMWEL OBWAYA MOKAYA**.
3. The accused pleaded not guilty to the charge and has been awaiting his trial since 3rd February 2012 when he took his said plea.
4. On 13th July 2015, the accused applied to be released on bond pending his trial. The State did not oppose the accused's said application for bond.
5. The pre-bail assessment report filed in court on 28th October 2015 recommended that the accused may be released on bond to enable him get proper medication as he is sickly.
6. I have taken into account the fact that the application for bond is not opposed and that the pre-bail assessment report favours the release of the accused person on bond.
7. Indeed, the provisions of **Article 49 (1) (h) of the Constitution** guarantees every arrested person the right to be released on bond pending their trial save for instances where there are compelling reasons for not granting bond.
8. Consequently, I hereby allow the accused's application to be released on bond in the following terms:-
 - a. **The accused may be released upon executing his own personal bond of Kshs.500,000/= with 2 sureties of a similar amount.**
 - b. **The proposed sureties shall be approved by the Deputy Registrar of this court.**
 - c. **The accused shall attend court for mention of his case once every thirty (30) days until the case is heard and determined or until further orders of this Honourable Court.**

d. **Should the accused default in any one mention without justifiable cause then the bond shall stand cancelled and the sureties called to account.**

e. **Hearing on 16th March, 2016.**

Dated, signed and delivered in open court this 20th day of January 2016

HON. W. OKWANY

JUDGE

In the presence of:

- Otieno for the State
- Mr. Ondari for the Accused
- Omwoyo: court clerk