



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.112 OF 2012

REPUBLICPROSECUTOR

VERSUS

GEOFFREY NYARUNDA GEKONGE.....ACCUSED

RULING

1. The accused person's initial application for bond pending his trial was on 30th June 2014 dismissed by this court (differently constituted) on the basis that he was then considered a flight risk by the state because it was alleged that he had remained at large for almost 1 year after the alleged crime of murder was committed. The court considered the conduct of the accused after the alleged offence and found that he was a flight risk.
2. By his application filed in court on 15th October 2015, the accused renewed his application for bond stating that he had been in custody for over 3 years while awaiting his trial and that he was sickly. In his affidavit in support of the bond application, the accused deponed that he was ready to abide by all and any conditions that the court may impose on him if granted bail pending the hearing.
3. The accused attached copy of a court order to his application as proof that he was undergoing treatment while at the Kisii G.K. Prison. I have considered the accused's renewed quest to be released on bond against the backdrop of this sickness and the fact that he has been in custody for over 3 years as he awaits his trial. To date, only one witness has testified in the pending murder trial and it is not clear or known when the trial will come to an end.
4. Under the above circumstances, I find that it would only be fair and just to grant the accused person his right to bond as envisaged under **Article 49(1) (h)** of the Constitution since continuing to hold him in custody indefinitely would not only be untenable but would make a mockery of principle that every accused person is deemed innocent unless proven guilty.
5. I find that the apprehension by the prosecution that the accused is a flight risk cannot hold true at the moment because they have on several occasions been unable to proceed with their case due to lack of witnesses and in any event, such apprehension can be cured by granting bond terms that would ensure that the accused attends court whenever he is required to do so.
6. Consequently, I allow the accused's renewed application for bond in the following terms:
 - a. **The accused shall be released upon executing his personal bond of Kshs. 1,000,000 (One Million with 2 sureties of a similar amount).**

- b. **The sureties shall be approved by the Deputy Registrar of this court.**
- c. **Upon his release, he shall attend court for mention once every 30 days until the hearing and determination of his case or until further orders of this court.**
- d. **In the event of default of No. (c) above without any justifiable cause, the bond shall be cancelled forthwith and the sureties called to account.**
- e. **The first mention shall be on 23rd March 2016.**

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

HON. W. OKWANY

JUDGE

In the presence of:

- Otieno for the State
- Accused in person
- Omwoyo: court clerk