



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

HCCR NO.47 OF 2015

REPUBLIC.....STATE

-VERSUS-

ALBERT ONDIEKI MOSIOMA.....ACCUSED

RULING

On 6th October, 2015 the accused person, **Albert Ondieki Mosioma**, through his Counsel, Nyamwange, then holding brief for Bigogo, applied for bond, to be released pending the hearing and determination of his murder trial.

Earlier, he was charged for murder contrary to **Section 203 as read with Section 204 of the Penal Code**. The particulars thereof were that on the 2nd day of March, 2014 at Matangi, village in Masaba North District within Nyamira County within the Republic of Kenya, he murdered **CYPRIAN MISOI NYARECHI**.

He pleaded not guilty to the charge.

The State, Mr. Malesi asked for time to respond to the said bond application on 11th November, 2015, then court called for the pre-bail assessment report. To-date the State has not responded to the bond application.

However, on 11th December, 2015 the pre-bail assessment report was filed in court.

Bond/Bail is a constitutional right accorded by the constitution. **Article 49(i) (h)** says; ***“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”***.

Since the State has not filed its response to state the compelling reasons, the court is compelled to be guided in the meantime, by the pre-bail assessment report.

The accused is aged 23 years he is married and is a peasant farmer. Both his family and the victim’s family are not averse to his being released on bond. His maternal relatives have expressed willingness to procure a surety for the accused person.

And since there are no compelling reasons raised by the all those interviewed that can form a basis to deny the suspect bond terms, this court, will therefore order that the accused be released on personal bond

of Kshs.500,000 with one surety of similar amount on the following conditions:

- (a) He attends court mentions every month until the hearing and determination of this case or court order.**
- (b) Any one default, the bond to be cancelled forthwith and the surety be made to answer.**
- (c) The first such mention to be on 18th February, 2016.**

It is so ordered.

Dated this 18th day of January 2016.

C.B. NAGILLAH

JUDGE

In the presence of:

Nyamwange for accused person

Malesi for the State

Mercy Court Clerk