



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL MURDER NO. 99 OF 2010**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**ERICK MICHIRA BISIERI..... ACCUSED**

**RULING**

1. The accused person herein, was first arraigned in court on 1<sup>st</sup> November, 2010 on the charge of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. It is alleged that on 15<sup>th</sup> October, 2010 at Kegochi Sub-location in Nyamache District within Kisii County, jointly with others not before the court murdered **JOHN ABUGA ONWONGA** on 22<sup>nd</sup> November, 2010, the accused pleaded not guilty to the said charge of murder.
2. On 6<sup>th</sup> June, 2013, the accused, through his advocate Mr. Ochwangi, applied to be released on bond pending his trial and the state, through the sworn replying affidavit of one No. 83640 corporal Olivia Ledonyo of Ogembo Police Station stated that she had no compelling reasons to have the accused person denied bail.
3. In a ruling delivered on 20<sup>th</sup> March, 2014, this court (differently Constituted) declined to grant the accused person bond on the basis of the contents of a pre-bail assessment report to the effect that the victim's family were not receptive to the accused being granted bond and therefore there was apprehension that the life of the accused would be in danger from possible revenge attacks from the victim's family if he got out on bond. The case was then listed for hearing and so far 5 witnesses have already testified, out of the 7 witnesses that their prosecution had in the opening statement indicated that they would be calling in this case.
4. On 16<sup>th</sup> March, 2016, the accused renewed his application to be released on bond pending the further hearing of his case citing the long period of time it had taken the prosecution to finalize their case against him.
5. Mr. Otieno appearing for the state did not oppose the accused's renewed quest to be released on bond.
6. I have considered the fact that the accused person has been in custody since 2010 when this matter was first filed in court. To-date, 6 years later, the prosecution has not finalized its case and there is no knowing when this case will finally come to an end.
7. I am certain that when this court (differently constituted) declined to grant the accused person bail on 20<sup>th</sup> March, 2014, it did not envisage a scenario where the trial would take this long to be concluded.
8. I am under the above circumstances of the considered view that this is a suitable case for a review of the earlier decision to deny the accused bail. In any event, I opine that any bitter feelings that the victim's family may have had against the accused or anyone suspected of the murder must have subsided considerably by now.
9. It is for the above reasons that I allow the accused's application to be released on bond pending

the conclusion of his trial on the following terms:

- a. *The accused may be released on bond upon executing his own personal bond of Kshs. 500,000/= with 2 sureties of a similar amount.*
- b. *Once he is released on bond, he shall appear in court whenever he is required to do so by the Honourable Court until the case is heard and determined or until further orders of this Honourable Court.*
- c. *In default of (2) above, the bond shall be cancelled immediately and the sureties taken to account.*

Delivered, dated and signed in at Kisii on **30<sup>th</sup>** day of **March**, 2016.

**W.A. OKWANY**

**JUDGE**

**In the presence of:**

- Mochama for the State
- Magara for Ochwangi for Accused
- Omwoyo: court clerk