

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO 31 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

PETER MWAURA MWANIKI

LUKAS KARURU GATHURU

JOSEPH GITHINJI NGUGIACCUSED

RULING

1. The accused persons herein, **Peter Mwaura Mwaniki** (1st Accused), **Lucas Karuru Gathuru** (2nd Accused) and **Joseph Githinji Ngugi** (3rd Accused) are charged with *murder* contrary to **sections 203 and 204** of the *Penal Code*. It is alleged in the **information dated 23/09/2015** that on 30/12/2014 at about 17.30 hours at Kigio Village in Gatanga Sub-County within Murang'a County, they jointly murdered **John Koroma Karuru**. On 23/09/2015 the accused persons pleaded not guilty to the charge. Their trial was scheduled to start on 14/03/2016, but the Judge was then away on leave. The trial will be shortly re-scheduled.

2. In the meantime the accused persons applied by **notice of motion dated 26/10/2015** to be admitted to bail pending trial. The Republic did not oppose the application in respect of the 1st and 3rd Accused; but it opposed the application in respect to the 2nd Accused (Lucas Karuru Gathuru) upon the ground that he is a flight risk.

3. On 09/03/2016 the 2nd Accused withdrew his application for bail upon conceding that he was facing a charge of escaping from lawful custody in a magistrate's court. That left only the 1st and 3rd Accuseds' applications.

4. Bail pending trial is now a constitutional right that will be denied only for compelling reason; and any conditions the court might impose for such bail must be reasonable. See **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.

5. As already stated, the Republic does not oppose bail for the 1st and 3rd Accused. I have read the witness statements and other documents supplied to the accused persons and to the court by the prosecution. I do not find any compelling reason to deny the 1st and 3rd Accused bail. They shall be admitted to bail upon their personal cognizance in the sum of KShs 300,000/00 and one surety each in like sum. It is so ordered.

7. The 2nd Accused, Lukas Karuru Gathuru, shall remain in custody during the trial.

DATED, SIGNED AT MURANG'A THIS 21ST DAY OF APRIL 2016

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 22ND DAY OF APRIL 2016