

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

CRIMINAL CASE NO. 1 OF 2016

REPUBLIC..... PROSECUTOR

VERSUS

MARTIN MUTUA MUSAU1ST ACCUSED

PAUL WAICHERE NDIRANGU.....2ND ACCUSED

PAUL WAICHERE NJENGA..... 3RD ACCUSED

MARGARET MUTHONI..... 4TH ACCUSED

RULING

1. The **1st accused Martin Mutua Musau, 2nd accused Paul Waichere Ndirangu, 3rd Accused Paul Waichere Njenga** and **4th accused Margaret Muthoni** have appealed for bond pending the hearing and determination of the murder trial herein.
2. It is stated in the affidavit sworn by the accused that they have been in custody since the month of December, 2015. That although the accused are residents of Gitwamba area of Trans Nzoia where this offence took place, they are prepared to relocate if their stay in the said area poses any risk to their lives. That in any event, security is the primary responsibility of the State. It is averred that the 4th accused, Margaret Muthoni is ailing and the conditions in prison are not conducive to her health. The accused are ready to abide by the terms and conditions of bond.
3. The application is opposed. The investigating officer, Cpl. Daniel Njoroge has stated in his affidavit in opposition to the application that following the murder of the deceased, the security in Gitwamba area is volatile and tension has continued to build. That intelligence reports indicate that should the accused persons be released on bond or acquitted, they are going to be killed.
4. I have considered the application and the reply to the same. Although the accused persons have a constitutional right to bail, this right can be curtailed if there are compelling reasons to do so. The prosecution has not given any compelling reasons why the accused persons should not be released on bond. It is outrageous for the prosecution to say at this stage that the accused persons cannot be acquitted without risking their lives. The State has the responsibility to provide security. The accused are also prepared to relocate from the area where the offence took place.
5. With the foregoing, I allow the application for bond. Each accused may be released on a Kshs.1,000,000/= bond with one surety of a like sum.

B. THURANIRA JADEN

JUDGE

Dated and delivered at Kitale this 24th day of May 2016.

B. THURANIRA JADEN

JUDGE