

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO 21 OF 2015

(CONSOLIDATED WITH MURANG'A HC CR 30 OF 2015)

REPUBLIC.....PROSECUTOR

VERSUS

1. LABAN MUNGAI CHEGE.....ACCUSED
2. MARTIN CHEGE NYANJORA.....ACCUSED

R U L I N G

1. The Accused persons in this case, **Laban Mungai Chege** and **Martin Chege Nyanjora**, are charged with **murder** contrary to **section 203** as read with **section 204** of the **Penal Code**. It is alleged in the substituted information dated 11th November 2015 that on the 08/06/2014 at about 19.00 hours at Kiawahiga Village in Gatanga Sub-County within Murang'a County, jointly with others not before the court, they murdered one **Anthony Njuguna Chege**.

2. Their plea was taken on 11/11/2015. They pleaded not guilty. Their trial is scheduled to commence on 07/11/2016. They have in the meantime applied respectively by **notices of motion dated 29/09/2015** and **30/11/2015** to be admitted to bail pending trial. The Republic has opposed the applications by replying affidavit sworn by Prosecution Counsel Keya Ombele on 22nd and filed on 26th April 2016. The point taken is that the Accused persons are flight risks, and that if granted bail may not turn up for their trial.

3. I have considered the submissions of the learned counsel for the Accused persons, Mr. Kirubi, and those of the prosecution counsel, Mr. Njeru. I have also perused the witness statements and other documents supplied to the Accused persons and to the court by the prosecution.

4. Bail pending trial is now a constitutional right for all criminal offences that will be denied only for compelling reason. Any condition for such bail that the court may impose must be reasonable. See **Article 49(1) (h)** of the **Constitution of Kenya, 2010**.

5. It appears that the Deceased was the step-brother of the Accused persons. The Deceased was allegedly killed over a long-standing land dispute. There are two other suspects who are still at large – also step-brothers of the Deceased.

6. The Investigation Diary in the bundle of documents supplied to the Accused persons and the court by the prosecution is replete with numerous efforts by the police to trace the Accused persons and the other suspects. They all appear to have disappeared after commission of the alleged offence.

7. The Deceased was killed on 08/06/2014. The Accused persons were arrested on or about 26/05/2015 and 23/09/2015 respectively after the police made numerous visits to their homes and their known places of work, and after repeated pleas to their families to assist in tracing them. As already pointed out, two other suspects are still at large.

8. I am persuaded that the Accused persons are clear flight risks. There is a heavy possibility that if admitted to bail they may not turn up for their trial. That is a compelling reason to deny them bail.

9. In the event their applications to be admitted to bail pending their trial are dismissed. It is so ordered.

DATED AND SIGNED AT MURANG'A ON THIS 9TH DAY OF JUNE 2016

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 10TH DAY OF JUNE 2016