

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO 34 OF 2015

REPUBLIC.....PROSECUTOR

VERSU

1. JAMES GITHINJI MWATHA

2. ANTHONY KERICHO GACHAU.....ACCUSED

RULING

1. The Accused persons herein are charged with *murder* contrary to **section 203 as read with section 204** of the *Penal Code*. It is alleged in the information dated 7/10/2015 that on 14/9/2015 at about 19.00 hours at Maragua Township in Murang'a South Sub-Country within Murang'a Country, jointly with others not before the court, they murdered one **Johnson Kihato Mwatha**. On 7/10/2015 they pleaded not guilty to the charge. Their trial is yet to commence. They have in the meantime applied by notice of motion dated 9/02/2016 to be admitted to bail pending trial. The Republic does not oppose the application.

2. Bail pending trial is now a constitutional right that will be denied only for compelling reason. Any condition for such bail that the court might impose, again by constitutional edict, must be reasonable. See **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.

3. I have perused the witness statements and other documents provided to the Accused persons and to court by the prosecution. I have not found in them any compelling reason to deny the Accused persons bail.

Consequently I will allow the notice of motion dated 9/02/2016. The Accused persons shall each be admitted to bail upon his own cognizance in the sum of KShs 500,000/00 plus one surety each in like sum. It is so ordered.

DATED AND SIGNED AT MURANG'A THIS 21ST DAY OF JULY 2016

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 29TH DAY OF JULY 2016