



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 24 OF 2016**

**REPUBLIC..... PROSECUTOR**

**VERSUS**

**SAMUEL MIRITI ..... ACCUSED**

**RULING**

**Samuel Miriti** is charged with the offence of murder contrary to **Section 203 as read with Section 204 of the Penal Code**. By a Notice of Motion dated 7/9/2016, the accused seeks to be released on bond for reason that he has a Constitutional right to bond, because he is presumed innocent until proved guilty; that he is willing to comply by any conditions that the court may impose; that he is not a flight risk as he has a fixed abode and will attend court as will be required of him. He has sworn an affidavit in support of the application.

The State did not oppose the application but the court went ahead and called for a pre-bail report. The probation officer did not find the accused suitable for release on bond for reasons that his family is totally disintegrated. None of his siblings is willing to stand surety for him because of a land dispute amongst his siblings. His children have all gone away from home, others had dropped out of school and lastly that the deceased's family has not yet come to terms with their loss since the incident only took place in April this year.

I have considered the affidavit and the pre-bail report. The main consideration in an application for bond is whether the accused will turn up for his trial.

As to whether the accused will interfere with witnesses, the duty rests on the prosecution to prove that allegation which has not been done..

The deceased's family is said to be still bitter over the loss of their loved one. Whereas I sympathize with their loss, yet the accused is deemed to be innocent till proved guilty. It is about 6 months since the incident occurred and there has been no demonstration of any danger to the accused's life. In most cases, the deceased's family will never be at peace with an accused being released on bond.

Apart from the allegation that the accused's family is disintegrated, there is no evidence that he is a flight risk nor is there evidence of his past antecedents. For the above reasons, I grant accused bond in the following terms: He may be released on **bond of KShs.200,000/= plus one surety of like sum or cash bail of Kshs.70,000/=**.

**DATED, SIGNED AND DELIVERED THIS 12<sup>TH</sup> DAY OF OCTOBER, 2016.**

**R.P.V. WENDOH**

**JUDGE**

**12/10/2016**

**PRESENT**

Mr. Mulochi for State

Ms. Thibaru Holding Brief for Ms. Nelima for Accused

Ibrahim/Peninah, Court Assistants

Present, Accused