



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 11 OF 2014**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**EVERLYNE KERUBO NYANGAU ..... ACCUSED**

**20/1/2015**

Before J. Wakiaga, J.

Bibu – cc

Mr. Sagwe for Mr. Ayienda for the Accused

The accused present

Mr. Majale for the State

**COURT RULING**

The accused is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The accused has pleaded not guilty to the said charges and is therefore considered innocent at this stage.

**Article 50** of the **Constitution of Kenya 2010** now gives all accused persons a Constitutional Right to be released on bond unless there are compelling reasons to deny the same bond which compelling reasons must be provided for by the prosecution.

In this case the prosecution has not offered any compelling reasons to deny the accused bond. The court is alive to the fact that the accused person faces a charge of murder where the sentence available if proved guilty is death. I have taken into account as stated in the prebail report that the accused is a single mother of a child of tender age aged 3 years and it is in the best interest of that child if the accused is released on bond at this stage as no one knows what will be the outcome of this trial. The accused should take advantage of the fruits of the new constitution to give the child maximum attention and care during the period of trial as no one knows whether she will be gone forever off at the conclusion of the trial.

I would therefore grant the accused person bond on the following terms:-

- a. Bond of Kshs.300,000/= with two (2) surety of similar amount.
- b. In the alternative cash bail of Kshs.150,000/=.
- c. The accused to attend mention before the D/R of this court once after every 30 days at a date to be set by the D/R with the first said mention being 20/2/2015.

**J. WAKIAGA**

**JUDGE**

**20/1/2015**