



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 54 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**LERIONKA KOIRRAG.....ACCUSED/APPLICANT**

**RULING**

1. Lerionka Koirrag was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The murder is alleged to have been committed on the 11<sup>th</sup> day April 2014 at Mosiro Location in Narok North District within Narok County. On the 30<sup>th</sup> April, 2014, the accused pleaded not guilty to the offence and since then he has been in custody.

2. On the 18<sup>th</sup> August 2014, advocate for the accused filed a motion pursuant to Article 49(1)(h) and Article 50(2) (a) of the Constitution seeking that the accused be granted bail on terms that the court may impose pending the hearing and determination of the case.

3. The grounds upon which the application is based are contained in a supporting affidavit sworn by one Antony Santoni Koirragi, a brother to the accused who states that the accused is a family man with a wife and 5 young children and that he is the only bread winner for his family. He further states that the accused turned himself into the the police hands when the alleged offence was committed and that at any time he may required to attend court, he would readily do so.

4. The State, through learned State Counsel Ms. Ngovi does not oppose th application, but invited the area chief from the accused's and deceased's home place to address the court on the situation on the ground as regards the accused's safety if released on bond.

5. The area chief, one Samson Siteo told the court under oath that the two families of the accused and the deceased have been holding reconciliation meetings and stated that at the moment there may be no peace due to the hostility between the two families. He told the court that those who may cause breach of peace are two brothers of the accused namely Runda Nguruma and Peter Nguruma.

However, when the brothers who were present in court were requested to respond to the allegation, Peter Nguruma told the court, on oath that he has no problem if the accused is released on bail/bond and that he will make sure that no body from the family will threaten the life of the accused or cause a breach of peace.

6. Article 49(I)(h) gives the court discretion to grant bail to an accused person, but that right is not

absolute. It may be denied where there are compelling reasons to deny the bail. The grounds upon which bail may be denied are that the accused may abscond and not attend court when required to do so. Other reasons are that the safety of the accused may be compromised due to hostility and if it can be shown that if released, he may interfere with witnesses.

7. In the present case, no compelling reasons have been given to deny bail to the accused. He has a fixed abode is a family man, and has stated his willingness to attend court whenever so required. The area chief and the brother of the deceased have confirmed to the court that they will maintain peace and no body may harm him if released.

8. I find that there are no compelling reasons to deny bail to the accused and I accordingly grant the application.

9. The applicant/accused shall be released on his personal bond of Kshs. 350,000/= with one surety of similar amount. The accused is warned not to interfere with witnesses and to attend court whenever required to do so. The accused is ordered to attend court for mention of the case once every month during the pendency and conclusion of the case.

Mention on the 27<sup>th</sup> March 2015, to take a hearing date.

**Dated, signed and delivered at Nakuru this 27<sup>th</sup> day of February, 2015**

**JANET MULWA**

**JUDGE**

**Ruling read in open court in the presence of:**

Ngovi for the State

N/A for the Accused

Court clerk: Mwai