



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
CRIMINAL CASE NO. 22 OF 2015
REPUBLIC.....PROSECUTOR
VERSUS
1. BENJAMIN MATHEKA MUSELA
2. SNOW MBULA ELIUD.....ACCUSED
RULING

1. The Application dated the **19th March, 2015** is brought pursuant to the provisions of **Articles 49(1) (h)** and **50 (2) (a)** of the **Constitution** of **Kenya** whereby the applicant seeks bail pending trial.

2. It is premised on grounds that:-

- i. The Applicants herein have been in remand for a long period of time hence infringing on their constitutional rights to bail;
- ii. **Article 49(1) (h)** of the **Constitution** stems from the provisions of **Article 50 (2) (a)** which provides that an accused person has the right to be presumed innocent until proven guilty;
- iii. The Applicants are Kenyan citizens with strong ties to the community and there exists no flight risk;
- iv. The applicants are parents with young families.
- v. The applicants are Civil Servants and respected members of the society who should be given a chance to continue contributing towards national building pending the trial of this case.

3. When the matter came up for hearing the learned State Counsel **Mrs Abuga** notified the court that the State was not objecting to the application.

4. The applicants are charged with three counts of **murder** contrary to **Section 203** as read with **Section 204** of the **Pena Code (Cap 63)** Laws of Kenya.

5. Bail is a constitutional right unless there are compelling reasons requiring incarceration of the accused persons. There being absolutely no reason to deter the applicants from being released on bail, I hereby grant each applicant bond of Kshs. **Three (3) million** with a surety of a similar sum.

6. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 24TH day of MARCH, 2015.

L.N. MUTENDE

JUDGE