

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL CASE NO. 9 OF 2014

DAVID MUNYUI CHARAGU

SAMUEL MUNGA NG'ANG'A.....ACCUSED/APPLICANTS

VERSUS

REPUBLICPROSECUTOR

RULING

1. The Applicants David **Munyui Charagu** and **Samuel Munga** are charged with the offence of **murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Particulars of the offence being that on the night of 25th and 26th January, 2014 at unknown time, at **Nkama Village Kuku** Location in **Loitokitok District** within **Kajiado County**, they jointly murdered **Catherine Kanini Muiwa**.

2. In an application dated **20th May, 2014** they seek to be released on bail pending trial.

3. They have deponed a joint affidavit whereby they state that if released on bail they will abide by all terms and conditions to be imposed by court.

4. In response thereto the State through **No. 46385 Sergeant Munga Mbwana** opposed their release on bail. The main contention is that the accused persons reside and carry out business within **Loitokitok Location** in **Kajiado South District** of **Kajiado** County where witnesses reside; their release will therefore be a threat to the prosecution's case.

5. The paramount consideration for one to be denied bail is if he is a flight risk. Another consideration would be whether he may interfere with witnesses. Residing in the same district with witnesses is not cogent evidence that such interference will occur.

6. In the premises, I do allow the application. Each accused may be released on bond of **Kshs. 10 million** with **two (2)** sureties in an even sum.

7. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 21ST day of APRIL, 2015.

L.N. MUTENDE

JUDGE