



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 10 OF 2015**

**REPUBLIC.....PROSECUTOR**

**-VERSUS -**

**ROBERT MUIGAI KIMANI.....1<sup>ST</sup> ACCUSED**

**SAMUEL CHEGE WAIRIMU.....2<sup>ND</sup> ACCUSED**

**JOSEPH NJOGU THABAI.....3<sup>RD</sup> ACCUSED**

**RULING**

1. The accused persons face a charge of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The accused persons have each filed an application seeking bail pending trial in the Notice of Motion applications dated 26<sup>th</sup> March, 2015. The grounds for the applications are on the face of the applications and are all similar, namely:
  1. **That the offence is bailable under the Constitution of Kenya and the applicants have a constitutional right to bail on reasonable conditions and terms pending trial and determination of the case.**
  2. **That the applicants are ready and willing to abide by any and all bail terms and condition the honourable court will grant.**
  3. **That the applicants are ready and willing to attend court, police station, criminal investigation department, or any other place and comply with any requirement or conditions that the court may impose.**
  4. **That the applicants are not flight risks and shall faithfully attend this honourable court for the trial to the end.**
  5. **That there are no compelling reasons why they should not be admitted to bail awaiting trial.**
  6. **That the applicants will not in any way interfere with investigations, witnesses or the prosecution of this trial if released on bond or bail.**
2. The applications are each supported by affidavits sworn by the accused persons. The gist of the affidavits is that the applicants have a fixed abode and are therefore not a flight risk.
3. The State has not opposed the application.
4. The court asked for Pre Bail reports on the accused persons and these were filed on 4<sup>th</sup> May, 2015. I have perused the reports. For each accused person the Probation Officer has shown that the

accused have family ties whereby the parents are shown to have committed themselves to live with their children (accused) and to support them to secure the bond if the court grants their application. There is a strong indication that the community does not oppose their release except for two uncles of the 1<sup>st</sup> accused.

5. Regarding the uncles the Probation Officer indicated that they merely expressed their reservations for the release of the accused persons. However they did not give any reasons for their reservations. I have considered that no details why the two uncles oppose accused release on bond has been demonstrated. The court cannot act without any good reasons shown. I have also considered the fact that the two uncles live in Nairobi, which is far from where the accused persons have said that they intend to live. I am satisfied that none of them stand to suffer any prejudice. After all no compelling reason has been given that would drive this court to deny the accused persons bail.
6. Having considered this application, I find that the accused should be granted bail on reasonable terms. The application is therefore granted on the following terms and conditions.
  - a. **Each accused may be released on a cash bail of KShs.250,000/=.**
  - b. **In the alternative the accused may be released on bond of KShs.1 million each with two sureties of KShs.500,000/= each.**
  - c. **The accused should not interfere with the witnesses in this case in anyway as this will result in the bond being cancelled.**

**DATED AT NAIROBI THIS 28<sup>TH</sup> DAY OF MAY, 2015.**

**LESIIT, J**

**JUDGE**