

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

HIGH COURT CRIMINAL CASE NO 45 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

KYALO MUTUKU.....1ST ACCUSED/APPLICANT

GEOFFREY MATUKU.....2ND ACCUSED/APPLICANT

R U L I N G

1. By an application dated **29th June, 2015** the accused persons herein seek to be released on bail pending trial. They face a charge of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**.
2. The application is supported by an affidavit sworn by the 2nd applicant **Kitili Matuku** whereby he states that they may suffer a mental breakdown and stress during trial. They are family men who owe a duty of care to their children and other dependants.
3. The State relied on an affidavit sworn by the Investigation Officer, **No 42560 Cpl Henry Kithinji** who deponed that currently the accused persons have a bad blood relationship with the family of the deceased. They live near prosecution witnesses whom they may interfere with. Murder weapons are yet to be recovered. Releasing the accused persons on bail may result into them thwarting the effort to recover them.
4. However, at the hearing the learned State Counsel did not vehemently oppose the application. She only called upon the court to impose hefty bail terms.
5. This court reserved its ruling until two (2) of the key witnesses testified. Having taken all factors into consideration, the prosecution has failed to demonstrate why the applicants should be denied bail. In the premises I grant each accused person bond of **Ksh 500,000/-** with a **surety** in a **similar sum**.
6. It is so ordered.

DATED, SIGNED and DELIVERED at KITUI this 29th day of September, 2015

L.N. MUTENDE

JUDGE