



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.148 OF 2012
Consolidated with Criminal Case No.62 of 2013

REPUBLIC

VERSUS

CHARLES NTABO MONDA alias NYANGARESI1ST ACCUSED

EVANS MAKORI ORINA alias NYAMATARI.....2ND ACCUSED

RULING

1. The 1st and 2nd accused persons herein are charged with the offence of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**.

The particulars are that on 3rd December 2012 at Iyienga village, Kiango Sub-location within Kisii County jointly with others not before the court murdered **Joseph Oganda Mogaka**.

2. The 2nd accused person were previously charged in two different court case files being KISII HCCR No.148 of 2012 and No.62 of 2013 for the 1st and 2nd accused respectively. The two files were however consolidated on 9th October 2015 whereupon it was directed that KISII HCCR No.148 of 2012 be the main file.

3. The accused persons, took fresh pleas following the consolidation of their two files in which they both pleaded “**not guilty**” to the charge of **Murder** after which Mr. Kaburi counsel for the accused applied that the 1st accused remains on bond in the same terms he was prior to the consolidation of the two files while Mr. Bigogo applied that the 2nd accused to be released on similar bond terms as the 1st accused in view of the fact that the two are now facing the same charge.

4. Bond is a constitutional right of all accused persons in line with the provisions of **Article 49 (1) (h)** of the **Constitution**. The State did not oppose the 2nd accused’s application for bond.

5. I have perused the court file and noted that the 1st Accused was on 26th February 2013 granted bond and I hereby adopt the same bond terms in respect to the 2nd accused and order as follows:-

- a. **The 2nd accused shall be released on his own bond of Ksh.3,000,000/= (Three million only) with 2 (two) sureties of a similar amount.**
- b. **The proposed sureties shall be approved by the Deputy Registrar of this court.**

- c. The 2nd accused shall attend court for mention of his case once every thirty (30) days until the case is heard and determined or until further orders of this Honourable court.
- d. Should the 2nd accused default in any one mention without justifiable cause then the bond shall stand cancelled and the sureties called to account.
- e. Mention on 25th November 2015.
- f. 2nd accused remanded in custody.

Dated, signed and delivered in open court this 28th day of October,2015

HON. W. OKWANY

JUDGE

In the presence of:

Mr. Boyon for the State

Mr. Kaburi for Accused

Omuga: Court clerk