



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 28 OF 2015**

**REPUBLIC.....PROSECUTION**

***VERSUS***

**JOHN KYAI KIKUVI ..... 1<sup>st</sup> ACCUSED**

**BONIFACE MUSYOKA KYAI..... 2<sup>nd</sup> ACCUSED**

**RULING**

The accused persons have applied for bail pending trial on charge of murder contrary to section 204 as read with 203 of the Penal Code (Cap 63) Laws of Kenya.

The state does not oppose their application.

The 1st accused in support of his application for bail has stated that he is farmer growing miraa. He earns Kshs.10,000/= per month. He says that he is not married. Finally he has stated that he is twenty five (25) years old.

The 2nd accused stated in support of his application that he is twenty five years old and he works as a labourer in the rural area. According to him he makes kshs.4,000/= per month. His mother is a farmer who grows maize. The applications of both accused persons are brought under Article 49(h) and 51 (I) of the 2010 Constitution. According to Article 49 (1) (h) an accused person has a right to be released on bond or bail on reasonable conditions pending trial unless there is compelling reasons not to be released on bail or bond.

Furthermore under section 123 (2) of the Criminal Procedure Code (Cap 75) Laws of Kenya the amount of bail shall be fixed with due regard to the circumstances of the case and shall not be excessive.

I have considered the applicable law, the circumstances of this case and the reasons advanced by the applicants in support of their applications for release on bail pending hearing and determination of the murder charge against the them. I have also taken into account that the application is not opposed by the state.

After considering the circumstances of the case in the light of the applicable law, I find that there are no circumstances that militate against their release on bail or bond. I also find that the applicants are persons of low income. After considering all these matters I find that this a fit case to grant bail, which I hereby do. Each of the accused persons is released on bail or bond in the sum of Kshs. Three Hundred Thousand ( Kshs.300,000/=) with a surety of a similar amount.

**RULING DATED, SIGNED and DELIVERED** in open court at **EMBU** this **25<sup>th</sup>** day of **NOVEMBER, 2015**

In the presence of counsel for the state and counsel for the respondent

Court clerk Mr Nyaga

**J.M. BWONWONGA**

**JUDGE**

**25.11.15**