



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.48 OF 2015

REPUBLIC - - - PROSECUTOR

VERSUS

HENRY NYABUTO ARORI - 1ST ACCUSED

HARON NYABUKA ARORI - 2ND ACCUSED

RULING

1. The accused persons herein, **HENRY NYABUTO ARORI** and **HARON NYABUKA ARORI** are jointly charged with the offence of **Murder** contrary to **Section 203** as read with **Section 204 of the Penal Code**.

The particulars of the charge are that on 18th May 2015 at Riongonjo village, Gionseri Sub-Location, Nyamache District within Kisii County jointly murdered **JOHN MOSE NYANGAU**.

2. On 29th September 2015, the accused persons pleaded "**NOT GUILTY**" to the said charge and are currently awaiting their trial.

3. Mr. Okenye, counsel for the accused applied for their release on bond pending their trial. The State did not object to the accused being released on bond.

4. A pre-bail assessment report filed by the Probation Officer on 23rd October 2015 recommended that the accused were suitable for release on bond pending their trial.

5. **Article 49 (1) (h)** of the **Constitution** guarantees an accused persons right to be released on bond pending their trial except where there are compelling reasons to deny them bond.

6. In the instant case, no reasons, compelling or otherwise, have been advanced by the State that can cause me to deny the accused their right to bond.

7. Consequently, I allow the accuseds' application for bond on the following terms:

a. Each accused person may be released on his own bond of Kshs.500,000/= with each availing two sureties of a similar amount.

b. The sureties shall be approved by the Deputy Registrar of this court.

c. Upon their release, the accused shall attend court for mention once every 30 days until their

case is heard and determined or until further orders of this court.

d. In default of (c) above without any justifiable cause the bond shall stand cancelled forthwith and the sureties called to account.

e. Mention on 17th December 2015.

Dated, signed and delivered in open court this 23rd day of November, 2015

HON. W. OKWANY

JUDGE

In the presence of:

- Otieno for the State
- No appearance for the Accused
- Ogega: court clerk