



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.20 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

CHARLES ORONYI OMBOTE alias MBERA.....ACCUSED

RULING

1. The accused person herein **CHARLES ORONYI OMBOTO** is facing the charge of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**.
2. The particulars of the charge are that on 10th December 2011 at Bokimai village South Mugirango Chache Location in Gucha South District within Kisii County, jointly with others not before the court murdered **ROBERT OMARI OYARO**.
3. On 14th February 2012, the accused pleaded not guilty to the charge and he has been awaiting his trial since then to-date, which trial has not proceeded even with a single witness.
4. On 18th June 2015, the accused, through his advocate Mr. Mosei, applied to be released on bond pending his trial which application was not opposed by the prosecution. The court then directed the probation officer to file a pre-bail assessment report as a precursor to the grant of bond.
5. As at 25th November, 2015, when this matter last came up before the court, the Probation Officer had not filed the pre-bail assessment report thereby prompting Mr. Ondari advocate for the accused to apply for his release on bond all the same and in the absence of the Probation Officer's Report in view of the long period of time that the accused had been languishing in custody as he awaits his trial.
6. I have perused the entire court file and I note that it is now almost 4 years since the accused person first appeared in court in this matter.
7. To-date his trial has not commenced and therefore it is not possible to ascertain the strength or viability of the prosecution's case against him.
8. The accused is under the law presumed innocent until and unless he is found guilty of the offence charged. **Article 49(1) (h)** of the Constitution provides that bond is a right of every accused person unless there are compelling reasons to deny him bond.
9. Consequently, I find that the accused's application for bond has merit and I allow it in the following terms:

- a. **The accused shall be released on bond upon executing his own bond of Kshs.500,000/= with 2 sureties of a similar amount.**
- b. **The sureties shall be approved by the Deputy Registrar of this court.**
- c. **Upon his release, he shall attend court for mention once every 30 days until the hearing and determination of his case or until further orders of this court.**
- d. **In the event of default of No. (c) above without any justifiable cause, the bond shall be cancelled forthwith and the sureties called to account.**
- e. **Hearing on 18th January 2016.**

Dated, signed and delivered in open court this 11th day of December, 2015

HON. W. OKWANY

JUDGE

In the presence of:

Imbali for the State

Moseti for the accused

Ogega: Court clerk