



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**CRIMINAL CASE NO. 17 OF 2013**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**CEASAR MWANGI .....1ST ACCUSED**

**CECILIA GATHONI THAIRU .....2ND ACCUSED**

**RULING**

1. The accused persons were charged with the offence of murder contrary to section 203 as read with section 204 of the Penal code the particulars of which were that on the 18th day of July 2013 at Gathugu village in Mathira East District within Nyeri County jointly with malice aforethought murdered JENNIFER WANJIKU MAINA and on 27th August 2013 both pleaded not guilty to the said charge.
2. Pursuant to the provisions of Article 49 of the Constitution the court on 2nd June 2014 ordered that the prosecution file an affidavit if they had compelling reasons to deny the accused persons bond and further order a pre bail report to be filed on the accused persons.
3. In reply to the application for bond the state through corporal Joseph Ndivo on 26th March 2014 filed an affidavit wherein that the accused persons were attacked by the members of the public who intended to kill them in vengeance and that the situation on the ground is still very volatile that the accused persons are likely to be attacked should they be released on bond.
4. Pre bail report as a guide was filed in respect of the first accused in which the probation officer confirmed that the community is still hostile to the accused persons to the extent that they attacked the police who came to the rescue of the accused at the time of the arrest.
5. Mr. Cheboi for the state submitted that the security of the accused persons is not guaranteed should they be released on bail as a result of the attitude of the community towards them. Mr. Njuguna for the 1st accused submitted that it is the duty of the state to provide security for all its citizens including the accused person. He further submitted that the court must balance the interest of the family of the accused and that of the victims.
6. Miss Mwai for the family of the victims submitted that there is still a lot of hostility and that this possibility of the accused persons walking around freely might intimidate the witnesses and therefore the exercise of judicial power should be in considerate of the rights of the other parties.
7. It is noted that the fact that there are hostility from the members of the public towards the accused persons has not been rebutted, and whereas the state has duty to provide the security to all its citizens including the accused persons where an accused person's security is threatened the court ought to take that into consideration.
8. I therefore take the view that the attitude of the members of the public towards the accused persons and their security if released on bond are compelling reasons which ought to be taken into account while determining an application for bond.
9. From the affidavit evidence tendered and the pre bail report releasing the accused persons at this

stage will not be the public interests and public security of the accused persons. I would therefore deny the accused persons bond at this stage. The accused persons are at liberty to review their application in the course of trial.

Dated and delivered at Nyeri this 20th day of June 2014.

J. WAKIAGA

JUDGE

Miss Muhoro for Lucy Mwai watching brief

Miss Maundu for the state

Mr. Njuguna Kimani for the accused.

Court: Ruling read in open court. Mention on 14th October 2014 for further order.

J. WAKIAGA

JUDGE

20/6/2014