



IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL CASE NO. 22 OF 2012

REPUBLICPROSECUTOR

VERSUS

LTISOISON STEPHEN NKUTAI

PATIREE LOKUIYE FRANCISACCUSED

RULING

1. The accused persons were on 16th July 2012 charged with the offence of murder and they both pleaded not guilty to the said charge.
2. Pursuant to Article 49(1)(h) of the Constitution of Kenya 2010 the applicants filed an application for bond pending hearing and in reply thereto the state through Ip Paul Kipkorir Sitonik filed an replying affidavit in which he deponed that after the commission of the alleged offence the accused persons fled from the scene.
3. That the 1st accused was arrested on 29th May 2012 13 days after the alleged offence by chief Putunoi of Iipolei at Kima Kandora village in Laikipia North after the police placed a manhunt while the 2nd accused was arrested on 2nd June 2012 17 days later. It was further deponed that the 1st respondent and his family relocated to Uwaso Ranch and therefore it was not safe to release them on bond.
4. Mr. Cheboi for the state submitted that the accused persons are considered a flight risk while Miss Mwai for the accused persons submitted that the accused persons are nomads.
5. In an application of this nature, it is upon the prosecution to provide compelling reasons as to why an accused person should be denied his constitutional right to bail. In this case the only reason advanced by the state is that the accused persons fled from the scene after the commission of the alleged offence which Miss Mwai rebutted by stating that the accused persons are nomads in nature.
6. It should be noted that at this stage the accused persons are presumed to be innocent until proven guilty and that the aim of bond is to ensure that the accused person turn up for his trial and therefore have taken into account the nature of the offence and the fact that the accused persons are nomads. I order that they both be released on the following terms and conditions pending their trial.

a) Bond of Ksh. 1,000,000 with (2) sureties of similar amount.

b) The accused to attend mention before the Deputy Registrar of this court once after every 30 days at a date to be set by the said Deputy Registrar.

c) The accused persons shall not leave the jurisdiction of this court without the written consent of the Deputy Registrar.

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

J. WAKIAGA

JUDGE

Court: Ruling read in open court in the presence of Miss Muhoro for Miss Mwai for accused. Miss Maundu for the state and the accused.

J. WAKIAGA

JUDGE