



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 19 OF 2011**

**REPUBLIC .....PROSECUTOR**

**versus**

**JOSEPH MATHENGE GITHETHUKI.....ACCUSED**

**RULING**

1. The applicant is charged with the offence of murder contrary to section 204 of the Penal Code the particulars of which are that on the 6th day of July 2011 at Njathaini village in Mathira West District within Nyeri county murdered ANTHONY MUNYIRI GITHOGORI.
2. The applicant pleaded not guilty to the charges and to assist the court in reaching suitable bond terms the court ordered prebail report which has now been filed.
3. Bail is now a constitutional right of any accused person under Article 49(h) of the Constitution which can only be deprived when there are compelling reasons to be provided for by the prosecution.
4. In this case the state through Mr. Nyamache has offered no compelling reason and whereas the matter has been fixed for hearing on 16th September 2014 the same can not proceed due to the recent transfer of the court.
5. In the absence of any compelling reason provided by the state and whereas the probation officers report indicate that the case is still emotive in the local area and that the accused safety may be at risk, this must be balanced against the accused constitutional right to bail.
6. I therefore order that the accused be released on bond of Ksh. 1,000,000 (one million) with one surety of like amount or in the alternative cash bail of Ksh. 500,000/- (five hundred thousand) the accused to report to the Deputy Registrar of this court once after every 30 days at a date to be set by the Deputy Registrar during the period of his trial.

Dated, signed and delivered at Nyeri this 19th day of September 2014.

J. WAKIAGA

JUDGE

Court: Ruling read in open court in the presence of the advocates for the parties.

J. WAKIAGA

JUDGE