



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CRIMINAL (MURDER) CASE NO. 55 OF 2014

STATE.....PROSECUTOR

VERSUS

JOHN OMONYWA MOSE.....ACCUSED

RULING

1. The accused herein, **John Omonywa Mose**, is charged with murder contrary to Section 203 as read with section 204 of the Penal Code. It is alleged that he murdered **Silvanus Omboga Makunga** on the 5th day of April, 2014 at Bogetacho village within Kisii Sub-District in Kisii County in the Republic of Kenya. He denied the charge. He now wants this honourable court to release him on bond pending the hearing and determination for his case.

2. This application is brought under article 49(1)(h). Under that article an accused has a right to be released on bond or bail, on reasonable conditions pending a trial unless there are compelling reasons not to be released. The state has a duty to show the court that there are compelling reasons why the accused in this case cannot be released on bond.

3. In this case the state they have not filed affidavit in reply thereof. The purpose of granting bail is to secure the attendance of the accused in court from the safety of his own home environment. The social assessment report is also favourable to the accused, bond is recommended.

4. In the circumstances, I find that since the prosecution has no objection to the accused be released on bond and the pre-bail probation report is favourable, thus there are no compelling reasons why the accused's application should not be granted.

5. Accordingly, I allow the application and order that the accused is to be released on his own personal bond of kshs. 500,000/- with two sureties of similar amounts to be approved by the Deputy Registrar of this court.

6. Upon his release, the accused shall attend court for the mention of his case once a month until the case is heard and determined. The first such mention shall be on the 1st of December, 2014.

7. It is so ordered.

Ruling dated and delivered at Kisii this 21st day of October, 2014.

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Mageto holding brief for Sagwe for the applicant

Otieno for the state.

Edwin Mongare Court Clerk.