



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL (MURDER) CASE NO. 49 OF 2014

STATE.....PROSECUTOR

VERSUS

SHEM ATANDI NYAKINA.....ACCUSED

RULING

1. The accused herein, Shem Atandi Nyakina, 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 not favourable to the Accused. The tempers are still very high and they cannot guarantee his safety.
4. Accordingly, bond is hereby denied. Later application may be made, at the time when the court expects the state to have also filed reply affidavit to the bond application giving compelling reasons why the bond should be refused or having no objection to bond being given to the Accused.
5. In these reason the bond is hereby refused.
6. 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 Ondari for the applicant

Otieno for the state.

Edwin Mongare Court Clerk.