



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE (MURDER) NO.133 OF 2013**

**REPUBLIC ..... PROSECUTOR**

**VERSUS**

**BENARD ISABOKE KERAGIA ..... 1<sup>ST</sup> ACCUSED**

**PATRICK ONDIEKI ONG'ANG'A ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. The accused persons faces the charge of murder and have pleaded not guilty to the said charges. In exercising their rights under **Article 50** of the **Constitution of Kenya 2010** the accused persons moved the court to be released on bond pending trial.
2. In reply to the said application, the state filed an affidavit through PC DANIEL OKOTH OLUOCH which he deponed that if the accused persons are released on bail their lives will be in danger as the situation is highly volatile the same having been rescued from the members of the public who wanted to lynch them after the alleged commission of the offence.
3. It was further deponed that there is a high possibility of the accused persons being in contact with the witnesses most of whom are their relatives and neighbours and that the accused persons might interfere with evidence.
4. To assist the court in determining the application, the court ordered pre-bail report which has now been filed in respect of 1<sup>st</sup> accused – Benard Isaboke in which it was submitted that the deceased's family are not ready to admit him at home having been accused of the murder of his brother while the second accused is his uncle.
5. Whereas bail is now a Constitutional Right of all accused persons which can only be denied upon compelling reasons, I have noted that though the accused persons are presumed to be innocent at this stage. They are accused of the murder of brother and nephew respectively and most of the prosecution witnesses will be their relatives and therefore if released on bond at this state, there is a real likelihood of the accused persons' presence at the home intimidating and interfering with the said witnesses.
6. Since the investigating officer has deponed that the lives of the accused persons might be in danger if released on bond at this stage, I find that it will not be in the interest of justice to release the accused persons on bond at this stage.
7. I therefore find that the State has provided compelling reasons to deny the two accused bond and hereby order that the accused be in custody pending the trial and determination of his case.

**Signed and dated 20<sup>th</sup> day of November, 2014**

**J. WAKIAGA**

**JUDGE**

In the presence of:-

Okenye for Sagwe for Accused

Mr. Majale for State