**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 109 OF 2012**

**REPUBLIC……..……..……PROSECUTOR**

**VERSUS**

**DENNIS ARUBA ONYERI……..……..1ST ACCUSED**

**CHARLES ONDIBA……..……...……..2ND ACCUSED**

**BENARD OYUGI……..……..…3RD ACCUSED**

**BONFACE NYABERI……..4TH ACCUSED**

**RULING**

1. This an oral application for bond by the accused persons, **Dennis Aruba Onyeri** and **Charles Ondiba and Benard Oyugi** and **Bonface Nyaberi**. The said accused persons were charged with murder contrary to **section 203** as read with **section 204** of the **Penal Code**. It is alleged that on the night of 8/9 August, 2012 at Sasera village, Sobera Sublocation of the South Masaba District within Kisii County jointly murdered Bernard Nyarimbasi. They all deny the charge. They then ask for bond to be released on the same pending the hearing and determination of their case.
2. The provision of article 49(1)(h) of the Constitution allows for the accused persons to apply for bail pending the hearing and determination of their case, the provision indicates that the court must set reasonable conditions on terms in giving bond.
3. It is incumbent upon the state, if any, to show cause that there are compelling reasons to deny the applicants bond. In the instance case, the state stated that there are no compelling reasons to deny the applicants bond.
4. The court is not seized of the pre-bail assessment report, either on each of the four accused persons.
5. Accordingly, the court will release the four (4) accused on following terms:-

a. *Dennis Aruba Onyeri*
b. *Charles Ondiba*
c. *Benard Oyugi*
d. *Bonface Nyaberi*

Each of the above is released on personal bond of Kshs. 1,000,000 with two sureties each of similar amount to be approved by the Deputy Registrar of this court.

6. Upon the release of each accused, they must attend monthly mentions without failure, and default, the bond will be cancelled forthwith and the sureties will be made to account for the default. Such

first mention to be on the 11th January, 2015.

7. It is so ordered.

Ruling dated and delivered at KISII this 15th day of December, 2014

**C.B. NAGILLAH,**

**JUDGE.**

**<u>In the presence of:-</u>**

Bigogo holding brief for Kaburi & Nyariki for the applicant

Majale for the state for the respondent

Edwin Mongare Court Clerk.