

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 39 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

HEZBON NYANDORO BOSIRE.....ACCUSED

RULING

1. This is an oral application for bond for the accused person, **Hezbon Nyandoro Bosire**. Bosire was charged with murder contrary to section 203 as read with 204 of the penal code. It is alleged that on the 7th day of February, 2014 at Kerema location in Masaba South District within Kisii county in the Republic of Kenya, jointly with others not before court murdered one **Haron Ombasi**. He denies the charge. And now he asks this court to grant hi bond.
2. The accused is informed by counsel that bond to even those charged with murder isailable, under **article 49(1)(h)** of the Constitution, bond is available to any accused person provided that there are no compelling reasons to be otherwise. It is incumbent upon the prosecution to file through a sworn affidavit that there are compelling reasons. The state, today the 25th day of November, 2014 promised to have their affidavit filed.
3. However, in the absence of the affidavit by the prosecution, a pre-bail assessment report would act as a guide. This report was filed on 17th July, 2014. The accused is 22 years old and married. He has no bad previous history. The report says that the accused is of acceptable behavior and this throughout his life. And those of his relatives describe him as obedient and trust worth, person within their locality and those relatives are ready to assist whenever there is need. This makes him suitable case for the release on bond.
4. Accordingly, the court allows his application for bond and grants him a personal bond of kshs. 1,000,000 with two sureties of similar amount the same to be approved by the Deputy Registrar of this court. Should the accused be released he is expected to attend court mentions every month until the hearing and determination of his case. The first such mention will be on 11th January, 2015.
5. However, if he defaults, the bond will be cancelled and the sureties will be called to account.
6. It is so ordered.

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

C.B. NAGILLAH,

JUDGE.

In the presence of:

Bigogo holding brief for Masese for the applicant.

Majale for the state for the respondent

Edwin Mongare Court Clerk.