



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 89 OF 2014**

REPUBLIC.....PROSECUTOR

**VERSUS**

SALAM OBIRI.....ACCUSED

**RULING**

1. This is an application for bond. The accused **Salam Obiri** is charged with murder. It is alleged that on 2<sup>nd</sup> August, 2014 at Riontueka sublocation in Nyamache sublocation within Kisii County, murdered **Carolyne Moraa Moseti**. He denies the offence but now applies to be released on bond.
2. Article 49(1)(h) of the Constitution authorizes the court to grant bond/bail even in murder cases, unlike in the past. The court is asked to give reasonable terms of bond to the accused person.
3. It is incumbent upon the prosecution to respond to any application regarding bond to show cause that there are compelling reasons why bond should be denied. The state has not filed its response in this application.
4. The pre-bail/assessment report is not filed either. It is normally a guide in the absence of the state response. The court has nothing to guide it to reach a balanced view in this application.
5. The court directs that Deputy Registrar to call for pre-bail assessment report to assist the court. Pending both response from the state and the probation office, the court will dismiss the application for bond by the accused.
6. The accused may renew the application sometime in future upon receipt of the state response or pre-bail assessment or both.
7. It is so ordered.

Ruling dated and delivered at KISII this 15<sup>th</sup> day of December, 2014.

**C.B. NAGILLAH,**

**JUDGE.**

**In the presence of:-**

Bigogo holding brief for Kaburi for the applicant.

Majale for the respondent

Edwin Mongare Court Clerk.