

REPUBLIC OF KENYA

High Court at Kakamega

Criminal Case 49 of 2011

(AN APPLICATION FOR BAIL PENDING APPEAL)

REPUBLIC PROSECUTOR

VERSUS

BENSON MACHESU SHELLY ACCUSED

RULING

This is a murder case where accused's counsel Mr. Shifwoka has applied for bond. The State Counsel, Mr. Oroni, does not oppose the request for bond.

Bond or bail is a Constitutional conditional right. An accused is presumed innocent until proved guilty. The Constitution of Kenya 2010 extended entitlement to bond or bail to those charged with capital offences. The State Counsel does not object to bond, and indicates that they are considering substituting the charge with that for a lesser offence.

I find no reason to deny the accused bail in the present circumstances of this case. I will grant bail or bond on the following terms:-

1. The accused will be released on signing a bond of Kshs.1,000,000/= (one million shillings) with two sureties of similar amount.
2. He will not interfere with witnesses or investigation.
3. He will attend hearings of the case and mentions, the first mention will be on 25th April, 2013.

It is so ordered.

Dated at Kakamega this 14th day of February, 2013

**George Dulu
J U D G E**