



REPUBLIC OF KENYA

High Court at Meru

Criminal Case 69 of 2012

REPUBLIC..... APPELLANT

VERSUS

STANELY MUTUMA M'IMANA

GITONGA MATHAYO ALIAS G. K. MUTISIA

SAMSON MICHUBU KANYANA

CHARELS NTONGA M'NTHAKA

JOSEPH GITONGA ALIAS KATO

LAWI KAMENCHU M'NTHAKA..... RESPONDENT

R U L I N G

The accused persons have all applied to be released on bond or bail pending the hearing and determination of their case.

Mr. Kijaro urged the application on behalf of the 1st and 2nd and 4th accused before Hon. Apondi, J. Counsel stated that the application was brought under Article 49(1) (h) of the Constitution. He relied on the 1st accused affidavit.

Mr. Otieno urged the application on behalf of the 3rd, 5th and 6th accused. He urged that the three accused persons were young people with families and that they needed to contribute to their welfare. Both counsels urged that the accused persons had pledged to attend court once granted bail.

I have considered the affidavit sworn by the 1st Accused on his behalf and that of the 2nd and 4th accused.

Mr. Motende for the State did not have any contributions to make to the application on the State's side. He urged the court to consider the Probation Officer's Reports instead.

I have considered the Probation Officers Pre-bail Reports on all six accused. Looking at the Reports holistically there is clear proof that the 1st accused is brother of the deceased and is suspected to be the master mind of the incident. The rest of the accused are suspected to have been hired. I know that at this stage all the accused should be considered innocent until proved guilty. The Probation Officer seemed to recommend the release of the 1st accused but not that of all his co-accused. I see no

reasonable explanation or logic for that. This is so especially considering that the person suspected to be the mastermind and the incident involved a firearm and the fact the murder was well co-ordinated and involved several people. Given these circumstances none of the accused persons would be eligible for bond and in that case especially the 1st accused. The serious circumstances of the case are sufficient and strong reasons to deny bail to the accused.

The incident occurred quite recently. The same is still very fresh in the minds of the immediate family of the deceased.

It is my view after considering this application that it will not be in the interest of justice to release the accused persons on bond.

I decline to grant their bail. Accordingly I dismiss the application altogether.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF MARCH 2013

LESIT, J.
JUDGE