



**REPUBLIC OF KENYA**

**High Court at Eldoret**

**Criminal Case 82 of 2011**

**REPUBLIC.....PROSECUTION  
VERSUS**

**JOHN SANDEE SOWETO**

**JOHN SINGER SIMIYU**

**MOSES SIMIYU NYAYO.....ACCUSED**

**RULING**

The Application is brought by way of Notice of Motion under the provisions of Article 49 of the Constitution of Kenya (2010) and Sections 66 and 125 (1) of the Criminal Procedure Code.

The Application is made by the 1st Accused person who has been charged with the offence of murder and is seeking to be admitted to bond with an alternative of cash bail.

The Applicant relies on the grounds on the face of the application and his Supporting Affidavit made on the 13th July, 2012.

The Applicant depones that he has been in custody since the 16th November 2011 and that he is married man with four (4) children and the family's sole bread winner.

The Applicant further depones that he is a Kenyan citizen domiciled in Kenya and resides at Munyaka Estate, Uasin Gishu County, within the Republic of Kenya.

He further avers and confirms that he is willing to abide by the terms and conditions of Bail set down by this court and prays that the application be allowed.

The Application was not opposed by the Learned Prosecuting Counsel for the State, Mr. Kabaka.

The court ordered that a Probation Officer's Report be prepared on the suitability of admitting the 1st Accused to Bail.

The Probation Report was tendered into court on the 15th October, 2011. After having perused the Report, this court finds the same to be favourable to the 1st Accused person.

The factors favourable to the 1st Accused is that the Report confirms that he is a family man, married and that he is blessed with four (x4) children.

The Probation Officer did not identify any compelling reasons to deny the 1st Accused his Constitutional

right to Bail and confirmed that the prevailing circumstances on the ground were conducive for his release.

This court has heard the submissions of Counsel for the 1st Accused and Prosecuting Counsel for the State and has also perused the Probation Report and is persuaded that there are no compelling reasons to deny the 1st Accused the right to bail.

For the reasons stated above the application for Bail pending trial is hereby allowed.

The 1st Accused is hereby admitted to Bail/Bond in the sum of Kenya Shillings Five Hundred Thousand (Kshs 500,000/=) with one surety of a similar amount.

It is so ordered.

Dated and delivered at Eldoret this 25th day of October 2012

**A.MSHILA  
JUDGE**