



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL CASE NO. 9 OF 2011

REPUBLIC.....PROSECUTION

=VERSUS=

DAVID MENDUA MUTUTA alias KICHAPO.....1ST ACCUSED
ALFRED MUSTAFA DAVID.....2ND ACCUSED

RULING

The two accused persons **DAVID MENDUA MUTUTA** and **ALFRED MUSTAFA DAVID** are jointly charged with the offence of Murder contrary to Section 203 as read with S. 204 of the Penal Code. **MR. GAKUHI** counsel for the two accuseds has applied that they be released on bail pending the hearing and determination of their case. **MR. ONSERIO** learned State Counsel raised no objection to the release of the two accused persons on bond. The right of **ALL** suspects to be released on bond is clearly provided by Article 49(1) (h) of the Constitution of Kenya. The only exception to this right is where '*compelling reasons*' are advanced to deny a suspect bail. In this case no such compelling reasons have been advanced. I have read and considered the pre-bail report filed by the Probation Department. Both accuseds were in gainful employment prior to their arrest. They both have families and are of fixed abode in Dili Dau village in Taita-Taveta County. They both have roots in the society and in my view cannot be considered a high-flight risk. I do therefore allow this application and admit the two accused persons to bond in the terms of Kshs.500,000/- + two (2) Kenyan sureties each of like sum.

Read in open court.

M. ODERO

JUDGE

8TH JULY 2011

In the presence of:

Mr. Mushelle holding brief for Mr. Gakuhi

Mr. Onserio for State