



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MERU**  
**Criminal Case 17 of 2010**

REPUBLIC ..... STATE COUNSEL  
VERSUS  
FESTUS NGUGI NJAGI ..... ACCUSED  
**RULING**

The accused is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. His plea on the charge was taken on 11<sup>th</sup> May 2010 when he pleaded not guilty and was remanded in custody pending his trial. When he appeared before court on 10<sup>th</sup> October 2010, his counsel applied that he be released on bail. His counsel applied for bail relying on Article 49 (1) (h) of the Constitution. That sub Article which relates to the right of an arrested person provides:-

***“To be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”***

Before considering the bail application made on behalf of the accused person, I requested the probation officer to prepare a pre bail report to assist the court make a decision. That report is now presented before me. I have considered that report and I note that the probation officer interviewed the relatives of the accused person. Those relatives stated that they were unwilling to stand surety for the accused person because the accused person does not reside at the home. The relatives stated that the accused person leaves the home to unknown destinations and only appears from time to time. The probation officer in the report stated:-

***“The relatives have the fear (sic) that once they stand him (sic) surety, he is likely to jump bail and tracing him would be an uphill task. The relatives also possess fear in that no one can really explain about how, where, and when the offence was committed hence they cannot stand him surety.”***

Bearing those sentiments of the accused relatives, I find that there are no compelling reasons to lead the court to release the accused on bail as he seeks because there are high chances of the accused jumping bail. The offence that the accused faces is a serious offence attracting a very serious sentence on conviction and for that reason, I decline to release the accused person on bail. The application for bail is rejected.

Dated and delivered at Meru this 13<sup>th</sup> day of October 2010.

**MARY KASANGO**  
**JUDGE**