



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL CASE NO. EO21 OF 2020

REPUBLIC.....DPP

VERSUS

- 1. DAVID MWATSUMA SAFARI**
- 2. YUSUF SAID NDURYA**
- 3. DIWANI KAHINDI NYALE**
- 4. NGOMBO KARISA NYALE**
- 5. SALIM KALU KAHINDI**
- 6. JUMA KAHINDI NYALE**
- 7. DZOMBO KANGA LUVANDE.....ACCUSED**

J U D G M E N T

1. The accused persons

- i. David Mwatsuma Safari alias Laboth
- ii. Yusuf Said Ndurya
- iii. Diwani Kahindi Nyale
- iv. Ngombo Karisa Nyale
- v. Salim Kalu Kahindi
- vi. Juma Kahindi Nyale
- vii. Dzombo Kanga Luvande

are jointly charge with the offence of Murder contrary to Section 203 as read with Section 204 of the penal code Chapter 63 Laws of Kenya.

2. The particulars are that the accused persons herein on the 13th day of December 2020 at Junda Location, Kisauni SubCounty within Mombasa County jointly with others not before court murdered David Wabuka Otua. The accused persons pleaded not guilty to the charge against them and applied for release on bond.

3. This court called for Pre-bail Reports in respect to each accused persons and the same were filed on 18/1/2021. In the Pre-bail Reports the Probation Officer Rosemary Nyonga inquires established that the accused persons were suitable to be released on bond pending trial.

4. In accordance to Article 49(1) (h) of the Constitution of Kenya 2010:-

“An arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released”.

5. The prosecution in this case did not file any affidavit by the Investigating Officer with compelling reasons why the accused persons cannot be released on bond. In the circumstances the accused persons are entitled to go through trial while on bond.
6. The accused persons will therefore be released on bond of Kshs.500,000/= each with a surety of a similar amount.

Dated, signed and delivered at Mombasa this 3rd day of February 2021.

HON. LADY JUSTICE A. ONG'INJO

JUDGE