



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. E028 OF 2021

BETWEEN

REPUBLIC.....PROSECUTOR

VERSUS

1. ELIUD NJUGUNA NGANGA

2. GEORGE KIHARA NDICHU

3. JOHN NDIRANGU NGANGA..... ACCUSED

RULING

1. **ELIUD NJUGUNA NGANGA, GEORGE KIHARA NDICHU and JOHN NDIRANGU NGANGA** are charged with the offence of murder. They all pleaded not guilty. By this Court's Ruling of 1st July, 2021, the three accused were ordered to be released from custody pending their trial on their own bond of Kshs. 1million and two sureties for each of them for similar amount.

2. An application has been made by the 1st and 3rd accused for review of bond terms. Their learned counsels stated that they both were unable to raise the bond terms and that their family were not in a position to provide the sureties.

3. **Article 49(1)(h)** of the Constitution of the Constitution provides that an accused as the right to be released on bond or bail on reasonable conditions.

4. The Constitutional right to be released on bail is a recognition of the value of liberty of an individual. That liberty was discussed in the case **REPUBLIC VS. DIANA SULEIMAN SAID AND ANOTHER (2014) eKLR** as follows:-

“14 The Supreme Court of India in the Deokar case cited its previous decision in MASROOR V. STATE OF UTTAH PRADESH AND ANOR. (2009) (14) SCC 286 as follows:

“There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned.”

5. There being no objection to review of bail terms by the prosecution, the 1st and 3rd accused prayer will be acceded to.

6. I order that **ELIUD NJUGUNA NGANGA** and **JOHN NDIRANGU NGANGA** be released on their own bond of Kshs.500,000/= with one surety of similar amount pending their trial.

RULING DATED and DELIVERED at KIAMBU this 18th day of NOVEMBER, 2021.

MARY KASANGO

JUDGE

Coram:

Court Assistant: Maurice

For DPP: Mr. Kasyoka

For 2nd Accused: Mr. Kirimi holding brief Ms. Irungu

For 3rd Accused : Mr. Kirimi

1st Accused **ELIUD NJUGUNA NGANGA:**

2nd Accused **GEORGE KIHARA NDICHU:**

3rd Accused **JOHN NDIRANGU NGANGA :**

For 1st Accused: James Muiruri

COURT

RULING delivered virtually.

MARY KASANGO

JUDGE