



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. E015 OF 2021**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**NEWTON WAKA..... ACCUSED**

**RULING**

1. **NEWTON WAKA** is charged with the offence of murder to which he pleaded not guilty. On 3<sup>rd</sup> June, 2021 he was granted bond of Kshs.500,000/= with one surety of similar amount. He has failed to meet the terms of his release on bond and has applied for review of the same. His learned counsel stated he would be in a position to raise bond of Kshs.300,000/=.

2. The constitutional provision under **Article 49(1)(h)** giving right to bail is a recognition of the importance of individual right to liberty. That right was discussed in the case **REPUBLIC VS. DIANA SULEIMAN SAID & 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.’”***

3. Bearing that the constitutional right, I shall accede to accused prayer for revision of bond terms.

4. I grant the following order:-

THAT **Newton Waka** shall be released on his own bond of Kshs.300,000/= and one surety of the similar amount.

**RULING DATED AND DELIVERED AT KIAMBU THIS 18TH DAY OF NOVEMBER, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Maurice

For DPP :- Mr. Kasyoka

For Accused :- Present

Accused **NEWTON WAKA:**

**COURT**

RULING delivered virtually.

**MARY KASANGO**

**JUDGE**