



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIVASHA**

**CRIMINAL CASE NO. E017 OF 2021**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MORRIS MUTHUI MUTETI.....1<sup>ST</sup> ACCUSED**

**LUKA KIRAGU.....2<sup>ND</sup> ACCUSED**

**RULING ON BAIL**

1. I have heard the defence counsel as well as the prosecutor. The accused persons have a right to be released on bail/bond unless there are compelling reasons not be released. This is underpinned under **Article 49 (1) (h)** of the **Constitution**.

2. The prosecution, through learned state counsel Miss Maingi submits that it has no compelling reasons to offer that would warrant the denial of bail to the accused persons. Counsel however asks the court to consider the nature of the offence and to order that the accused persons do not interfere with witnesses.

3. Amongst the reasons a court considers as compelling factor for denial of bail is the seriousness of the offence. However, the omnibus to them all is the assurance that an accused shall attend court. No reason has been advanced that the accused persons are likely to abscond. I therefore find the application meritorious and I grant the following orders.

- a) Each of the accused persons is released on a bond of Kshs 1 (one) million with one surety of a similar amount or a cash bail of Kshs 500,000/=.
- b) The sureties shall be assessed by the Hon. Deputy Registrar of this court.
- c) The accused persons are ordered not to attempt to, or interfere with, prosecution witnesses during the pendency of this trial. In particular, they must not set their foot within North Kinangop or any area where prosecution witnesses live. They shall confine their lives to as far as is possible to their original homes - Machakos and Murang'a respectively.
- d) Accused persons must also ensure they attend court at all times failing which the court shall not hesitate to cancel the bond/bail terms.
- e) The prosecution to supply the entire trial bundle to the defence within 30 days.
- f) Pre-Trial Conference on 3<sup>rd</sup> May, 2022.
- g) Normal mention on 13<sup>th</sup> January, 2022.

**DATED AND DELIVERED AT NAIVASHA THIS 15<sup>TH</sup> DAY OF DECEMBER, 2021.**

**G. W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:-**

1. Ms. Maingi for the Prosecution

2. Mr. Gichuki for both accused persons

3. Accused persons - both present in court

4. Court Assistant - Quinter Ogutu