



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 7 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

PETER MUIRURI KIBANDE.....1ST ACCUSED

PATRICK KAMONDO MUIRURI.....2ND ACCUSED

SAMUEL MBURU MUIRURI.....3RD ACCUSED

RULING NO. 2

1. In a considered ruling delivered on 30th July 2020, the Court declined to release the accused persons on bail. Their previous counsel on record, Mr. Waweru, lodged a motion for *review* on 10th November 2020 but failed to fix it for hearing.
2. The accused later instructed new counsel, Mr. Njoroge, who has filed a fresh notice of motion praying that the accused be admitted to bail pending trial. It is supported by a deposition sworn by the advocate on even date.
3. The motion was argued on 6th December 2021. It was opposed by the Republic through a replying affidavit sworn by Police Constable Samuel Kainga on 2nd November 2021.
4. The instant motion is thus a plea for review of the earlier orders. In the meantime, the trial commenced and four state witnesses have testified.
5. The centerpiece of the application is that there are no compelling reasons to hold the accused in custody. Learned counsel has pleaded that the accused have a constitutional right to bail; and, that they will abide by any conditions set by the court.
6. The 1st accused is the father to the 2nd and 3rd accused. According to the replying affidavit sworn by Police Constable Samuel Kainga, two other suspects remain at large. One of them jumped bail in an unrelated charge before the lower court at Kigumo law Courts.
7. Whether or not the charge of *murder* will be made out is still too early to call. The accused persons are deemed to be innocent. I have paid heed to the original pre-bail reports dated 17th July 2020 in respect of each of the accused persons. The social reports indicated that there was palpable anger at the *locus in quo*. The irate public torched the houses of the accused. The safety of the accused can still not be guaranteed. I find that there is no fresh evidence in the present motion showing that the ground has shifted. Accordingly, the original reasons for denial of bail remain valid.
8. The upshot is that the application by the accused dated 29th September 2021 is *dismissed*.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 14TH DAY OF DECEMBER 2021.

KANYI KIMONDO

JUDGE

RULING READ IN OPEN COURT IN THE PRESENCE OF-

THE ACCUSED PERSONS.

MR. T. M. NJOROGI FOR THE ACCUSED.

MS. MURIU FOR THE REPUBLIC.

MS. DORCAS WAICHUHI & MS. SUSAN WAIGANJO, COURT ASSISTANTS.