

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT CHUKA

CRIMINAL CASE NO. 3 OF 2019

GERALD NJERUM'IBUA.....1ST ACCUSED/APPLICANT
JULIUS MBURU KINANGA.....2ND ACCUSED/APPLICANT
JOHN NTHIGA KIREMA.....3RD ACCUSED/APPLICANT
SISIRIA KATORA ROCHIANGA.....4TH ACCUSED/APPLICANT
LEAH MUTHONI NGIGI.....5TH ACCUSED/APPLICANT
JULIUS NJERU KIMENYE.....6TH ACCUSED/APPLICANT
JORNARD NJAGI KIBIUBI.....7TH ACCUSED/APPLICANT
GEDIAL MUNYUA MUNUGU.....8TH ACCUSED/APPLICANT
TOM KINYUA NJOKA.....9TH ACCUSED/APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. Before this court is a Notice of Motion dated 16th April 2020 made by accused persons/Applicants seeking for bond pending trial.
2. The application is based on the grounds on the face of application which mainly is based on their constitutional right to bail and lack of compelling reasons in their view to deny them bail. They have averred that they have been in custody for more than a year and that they are all close family members with some of them advanced in age. They contend that any perceived tension that were initially there must have subsided by now.
3. The State through the Director of Public Prosecution has opposed this application through an affidavit sworn on 21st April 2020 by CIP Stanselons Mwangi Githiro. The investigating officer has deposed that this court disallowed a similar application dated 28th May 2019 on 24th July 2019. He asserts that the vulnerable civilian witnesses are yet to testify and that the situation on the ground is still volatile. He relies on the social inquiry reports that was earlier filed in this court.
4. I have considered this application and the response made by the State. It is true that this court vide a ruling dated 24th July 2019 found some compelling reasons to deny the accused persons bail. The reasons were hinged on the probation report and the objection raised by the State. The reasons were based on the fact that the situation in the locality where the accused persons came from is still fluid and given that the most witnesses are from the same locality and the manner in which the murder was executed, the civilian witnesses were likely to be intimidated and shy away from coming to court to testify. Those reasons and/or fears are still valid because so far none has testified in court. In the premises this court finds that nothing much has changed to persuade this court to review its position taken on 24th July 2019. For now the application dated 16th April 2020 is disallowed. The Applicants can apply for review after at least majority of the civilian witnesses have testified.

Dated, signed and delivered via zoom connected to Meru Prison, Chuka Prison and counsels on record this 7th day of May 2020.

R.K. LIMO

JUDGE

7/5/2020