



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 47 OF 2016**

**REPUBLIC.....PROSECUTOR**

**-Versus-**

**PATRICK MUTHEE.....1<sup>ST</sup> ACCUSED**

**SAMUEL KABERIA MUTHEE.....2<sup>ND</sup> ACCUSED**

**RULING**

[1] The accused persons are charged with the offence of murder contrary to section 203 as read with section 204 of the penal code Cap 63 of the Laws of Kenya. The accused persons have sought to be released on bail pending the hearing and determination of this case.

[2] This Court considered a bail application and on 12<sup>th</sup> February 2018 made a determination denying both the accused persons bail on the basis on the grounds that; (1) there is still eminent danger to the accused persons if released; (2) there is a likelihood of the accused persons interfering with the witnesses; and (3) there is likelihood of accused absconding since they do not have a fixed abode.

[3] Another request to be released on bond has been made by the accused persons. The Probation officer has also filed fresh pre-bail reports dated 1<sup>st</sup> October 2018 in relation to the accused persons. These reports are strikingly similar to the probation officer's report dated 1<sup>st</sup> November 2017. According to the new reports, the victim's family as well as their own families is still opposed to them being released from custody. They fear for their lives as the Community is still charged with anger over the offence hence chances of revenge are still high.

[5] Notably also, the accused persons do not have any fixed abode at this time. The only indication is the 1<sup>st</sup> accused person made some premises on ½ an Acre in Kathanji but we are told that this is his fixed residence or abode. The recent pre-bail report also states that the 2<sup>nd</sup> accused person is still a flight risk.

[6] I am therefore convinced that the same conditions as at the Ruling of 12<sup>th</sup> February 2018 still obtain to wit:-

(a) The safety of the accused cannot be guaranteed as the community still raves with anger and desire for revenge; and

(b) The attendance of the accused person during trial is not guaranteed, for they have no fixed abode and are flight risk.

[7] Accordingly, I find that there are compelling reasons not to release the accused persons on bail. I therefore reject the accused person's application for bail. The accused persons will remain in custody until this case is heard.

**Dated Signed and delivered in open Court at Meru this 16<sup>th</sup> Day of January, 2019**

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**F. GIKONYO**

**JUDGE**

**In presence of -:**

Namiti for state

Muriuki for 1<sup>st</sup> accused person – absent

Gitonga for 2<sup>nd</sup> accused person

Both accused - present

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**F. GIKONYO**

**JUDGE**