



**REPUBLIC OF KENYA**

**HIGH COURT AT NAIROBI**

**CRIMINAL CASE NO. 32 OF 2019**

**LESITT, J**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**RACHAEL WANJIKU MUTHONI.....1<sup>ST</sup> ACCUSED**

**ANTONY WAKAHIA NJERI.....2<sup>ND</sup> ACCUSED**

**STEPHEN ODHIAMBO OUMA.....3<sup>RD</sup> ACCUSED**

**HARRISON ONKONJI MUNG'UNI.....4<sup>TH</sup> ACCUSED**

**RULING ON BAIL**

1. The accused persons are facing a charge of murder contrary to **Section 203** as read with **section 204** of the **Penal Code**. They seek to be released on bail pending their trial under **Article 49(1) (h)** of the **Constitution**.

2. Ms Onunga, Learned Prosecution Counsel did not oppose the application for bail. Counsel however asked that the accused persons be required by the court to make an undertaking not to interfere with the witnesses in this case and further to furnish full details of their fixed place of abode.

3. The court made the order required that each accused files an affidavit giving details of their place of abode and an undertaking not to interfere with witnesses in the case. In addition the court required the accused to show how they will be sustaining themselves in terms of subsistence.

4. I confirmed from the record that each accused complied with my directions to file affidavits showing their place of abode, whereby each has indicated the estate in which they reside with their spouses and or children. They have shown how they will earn their daily bread and fend for their families. They have also confirmed their commitment not to interfere with witnesses.

5. The accused have a right to be released on bail pending the trial unless there are compelling reasons. None have been alleged, the prosecution have gone a step further and indicated they will not be opposing bail.

6. The **Constitution under Article 49(1) (h)** makes it clear that the bond terms should be reasonable. The Bail and Bond Policy Guidelines elaborates that what is reasonable should be accessed by the court (or police if it's pre-charging) having regard to various factors.

7. In this case, I have considered accused personal means as spelt out in their affidavits. I note that most of them are people of humble background and humble means. What is reasonable will therefore be gauged pegged on their personal circumstances as declared by themselves.

8. In the result I grant each of the accused bail on the following terms:

**a) Each accused may be released on cash bail of KShs.100,000/=.**

**b) In the alternative each accused may be released on a bond of KShs.250,000/= with one surety of like sum.**

**c) In addition to the above each accused is warned to stand by their undertakings contained in their individual affidavits including:**

**(i) That they will not interfere with any potential witnesses or witnesses in this case.**

**(ii) That they will not leave the court's jurisdiction without the express leave of the court.**

**(iii) That the Accused should avail themselves for their trial as and when required.**

9. The accused are warned that breach of any of the terms in **8(c)** above may result in cancelation or other variation of their bond terms including enhancement of terms.

**DATED AT NAIROBI THIS 17<sup>TH</sup> DAY OF JULY, 2019.**

**LESIT, J**

**JUDGE**