



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL DIVISION**

**CRIMINAL CASE NO.42 OF 2018**

**REPUBLIC.....APPLICANT**

**VERSUS**

**MICHAEL JUMA ONYAMO.....RESPONDENT**

**RULING**

The issue before this court is rather straight forward: *Has the prosecution laid sufficient basis for this court to order for the subject to be detained for a further fourteen (14) days?* As I get it, the prosecution is saying that the investigations being undertaken by the police is multifaceted and involves many leads and suspect both in custody and at large. There is forensic material to be examined and processed. There is also the element of public interest which must be taken into consideration. The defence team is of the view that the continued detention of the subject is unjustified in view of the period of seven (7) days that he has now been in police custody. They are of the view that the police have had sufficient time to process the subject. They have also complained of the subject's alleged mistreatment while in police custody and further pointed out the alleged breach of the initial orders issued by the Chief Magistrate's Court, Homabay. The family of the deceased's interest is for justice to be done and the truth be established why their daughter and her unborn child had to so tragically meet their deaths.

The first issue that this court will address is on the question of jurisdiction. This court has jurisdiction to deal with the matter that the court has been addressed. I did not hear defence counsel question this court's jurisdiction. On the merits of the application, this court agrees with the prosecution that due to the multifaceted and complex nature of the investigations, that is, it involves many suspects and many leads, it is only fair that the subject continues to be detained for a further period of fourteen (14) days. He shall be detained at Muthaiga Police Station. During his detention, his rights and fundamental freedoms that are guaranteed by the **Constitution** shall be respected; he shall be allowed access to his advocates during daytime. His relatives, who shall be vetted, shall also be granted access to see him. He shall be brought to court after the expiry of the fourteen (14) days where the prosecution shall be required either to have him formally charged or be released.

Pursuant to **Article 49(1)(g)** of the **Constitution**, this court shall read the charge to the subject but shall not require him to plead to the same. The purpose of reading the charge is so as to notify or put the subject on notice of the charge he is likely to face. The subject shall be at liberty to apply for bail pursuant to **Article 49(1)(h)** of the **Constitution** upon the expiry of the fourteen (14) days. This court has desisted from making any comments in regard to what transpired from the day the subject was arrested to today when he was arraigned before this court because it may form part of the defence of the subject if he is tried. It is only the trial court that has jurisdiction to address the matter. The defence counsel are at liberty to raise the issues before the trial court. Those are the orders of the court.

**DATED AT NAIROBI THIS 12<sup>TH</sup> DAY OF SEPTEMBER 2018**

**L. KIMARU**

**JUDGE**