

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 22 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

SIMON MUTUNGA MULE.....ACCUSED

R U L I N G

1. **Simon Mutunga Mule**, the Applicant, by an application dated **24th May, 2017** seeks to be released on bail pending trial. The application is premised on grounds that the Accused is an active youth leader in the community with a fixed abode which he will not leave until the case is heard and determined; the community that he hails from is not against his release. His life is not threatened and he will attend trial until the case is determined.

2. He deposed an affidavit in support of the application where he reiterated what is stated in the grounds on the body of the application.

3. The application is unopposed.

4. At the hearing **Mr. Mwalimu** Counsel for the Accused asked the Court to allow the application.

5. **Mr. Mamba** Counsel for the State called upon the Court to grant stringent bail terms as a person's life was lost and bail is absolute.

6. The **Constitution of Kenya, 2010** protects the rights of an individual. A person is presumed innocent until proven guilty. **Article 49(1)(h)** of the **Constitution** provides thus:

“(1) An arrested person has the right—

(h) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”

7. Looking at the nature of the offence the Accused is charged with which is **Murder**, it is serious and it attracts a severe sentence of death. Such an offence would lead to those aggrieved harbouring hostility towards the Accused. His security would therefore be in question.

8. The Respondent was duty bound to inform the Court if there exists reasons that required the Accused person's incarceration. Taking into consideration the response put up by the learned State Counsel it is obvious that they had none.

9. In the premises, I have absolutely no reason to deny the Accused bail. He is granted bond of **Kshs. 1,500,000/=** with surety of similar sum

10. It is so ordered.

Dated, Signed and Delivered at Kitui this 13th day of July, 2017.

L. N. MUTENDE

JUDGE