



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL CASE NO. 95 OF 2015

PHINEAS BUNDI..... 1st APPLICANT

JOSHUA MUTHAURA.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

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.

By a Notice of Motion Application dated 24th February 2016, the accused persons have sought to be released on bail pending the hearing and determination of this case.

The applicants contend that they have a Constitutional right to be released on bail pending the hearing and determination of this case; that they are presumed innocent until proved guilty; that they have a fixed abode and are not a flight risk.

The application was not opposed by the State.

Before the court considered this application, it asked for pre-bail reports. According to the pre-bail reports filed in court on 27th April 2016, it was stated that the accused persons had been friends with the victim's family; that other than this incident the accused had never been involved in criminal activities. The community was optimistic that the accused will not abscond court process if given an opportunity to attend court on bail.

The mother and sister to the deceased were opposed to the grant of bail stating that the incident had happened recently and was still fresh in their mind and having them released on bail would add more pain to them.

I have considered this application, submissions by counsel and the pre bail reports.

The State did not object to the accused persons being released on bail. Similarly, the pre-bail reports depicted the accused persons in good light and there are no serious objections to the accused persons being released on bail. In most cases, the deceased's family will always object to release of an accused on bond because of their pain but the court has to balance the rights of all involved considering that the

accused persons shall be presumed innocent till proved otherwise. There are no known compelling reasons to deny accused persons bond and I do grant the application as follows:

Each accused may be released on a **bond of KShs.250,000/= with one surety of a similar amount or cash bail of KShs.75,000/=**.

DATED, SIGNED AND DELIVERED THIS 10TH DAY OF MAY, 2016.

R.P.V. WENDOH

JUDGE

10/5/2016

PRESENT

Mr. Mulochi for State

Ms. Nelima for Accused

Peninah/Ibrahim, Court Assistants

Both Present, Accused