



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL CASE NO. 83 OF 2015**

**REPUBLIC ..... PROSECUTOR**

**VERSUS**

**BONIFACE KIOGORA .....1<sup>ST</sup> ACCUSED**

**JAMELECK KABURU MUGIRA.....2<sup>ND</sup> ACCUSED**

**BENARD MURIANKI MBAYA.....3<sup>RD</sup> ACCUSED**

**RULING**

The three accused, **Boniface Kiogora, Jameleck Kaburu Mugira and Benard Murianki Mbaya**, face a charge of murder contrary to **Section 203 as read with section 204 of the Penal Code CAP 63 of the Laws of Kenya**. They have filed the Notice of Motion dated 24/2/2016 seeking to be released on bond pending the hearing of this case. Each of them swore an affidavit in support of the application. The grounds upon which the application is brought are that the accused have an unqualified right to bond on reasonable grounds, pursuant to **Article 49 (1) (h) of the Constitution**; that the offence is bailable and they are ready to comply with whatever terms the court will grant; that they are Kenyan citizens from Meru where they have their residences and are not a flight risk.

The Investigation Officer filed a replying affidavit in which he deposes that after the commission of the offence, the accused went into hiding and were arrested after 4 days and are therefore, a flight risk. The accused persons filed a further affidavit denying the allegation and stating that they were at their homes from where they were arrested.

The primary consideration in an application for bond is whether an accused will turn up for his trial. In this case, the court called for prebail reports which were favourable to all the accused. They are said to be of good character – all have not been involved in any criminality before. They are also said to have families in Meru who are willing to provide security for the accused and are therefore not a flight risk.

Although the Investigation Officer states that the accused had gone into hiding, there is no evidence made by the Police to arrest the accused after the 4 days. In my considered view, there are no compelling reasons to warrant the accused being denied bond.

In the end, I allow the application and grant accused persons bond as follows:

Each accused may be released on bond of KShs.250,000/= plus one surety of like sum or in the alternative, cash bail of KShs.75,000/= each.

**DATED, SIGNED AND DELIVERED THIS 11<sup>TH</sup> DAY OF MAY, 2016.**

**R.P.V. WENDOH**

**JUDGE**

**11/5/2015**

**PRESENT**

Mr. Mulochi for State

Mr. Munene Kiumi Holding Brief for Mr. Mutegi for Accused

Ibrahim/Peninah, Court Assistants

All Present, Accused