



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL CASE NO. 20 OF 2013**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHN NDABU NYARORI.....ACCUSED**

**RULING**

1. The accused herein **JOHN NDABU NYARORI**, was first arraigned in court on 1<sup>st</sup> March, 2013 on one count of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**.
2. On 19<sup>th</sup> December 2013, this court granted the accused bond of Kshs. 3,000,000/= with 2 sureties of similar amount.
3. The accused was unable to meet the bond terms and on 21<sup>st</sup> October, 2015 he applied for a review of the bond terms. On 17<sup>th</sup> November 2015, the accused's bond terms were further reviewed to Kshs. 3,000,000/= with 2 sureties of Kshs. 1,000,000/= each.
4. The accused is still unable to meet the bond terms and on 1<sup>st</sup> March, 2016, exactly 2 years after being arraigned in court, applied for a further review of the bond terms.
5. Indeed, this court recognizes that bond is a constitutional right which cannot be denied except for very compelling reasons.
6. In the instant case the state is not opposed to the accused being released on bond.
7. The Accused's only handicap has been his inability to secure persons that can stand surety for him for the amounts that had been ordered by the court.
8. It is this court's view that the accused's right to bond should not be curtailed by his inability to get well-heeled sureties who can afford the amount of bond ordered.
9. It is for this reason that this court deems it fit to further review the order on bond and grant the accused's application in the following terms:

***The accused may be released upon executing his own personal bond of Kshs. 1,000,000/= (one million) with one surety of Kshs. 500,000/=. The other conditions of bond shall remain as were set in the ruling delivered on 19<sup>th</sup> December, 2013.***

10. It is so ordered.

Delivered, dated and signed in at Kisii on 4<sup>th</sup> day of May, 2016.

**W.A. OKWANY**

**JUDGE**

**In the presence of:**

- Mr. Otieno for the State
- Mr. Momanyi for the Accused
- Omwoyo court clerk