



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**CRIMINAL CASE NO.21 OF 2015**

REPUBLIC .....PROSECUTOR

VERSUS

ERICK KIBOI OMBATI.....1<sup>ST</sup> ACCUSED

EDWARD MAUTI OBIERO.....2<sup>ND</sup> ACCUSED

EVANS OYONDI MAUTI.....3<sup>RD</sup> ACCUSED

**RULING**

1. The accused persons herein, ERIC KIBOI OMBATI, EDWARD MAUTI OBIERO and EVANS OYONDI MAUTI are jointly charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**.
2. The particulars of the charge are that on 18<sup>th</sup> January 2015 at Kabiero Location in Gucha South Sub-County within Kisii County, jointly murdered **WILSON ONAMI NYATIENO**.
3. The accused persons pleaded not guilty to the charge and are currently awaiting their trial.
4. On 1<sup>st</sup> March 2015, Mr. Kaburi advocate for the 2<sup>nd</sup> and 3<sup>rd</sup> accused persons applied for their release on bond pending the hearing of their case.
5. Article 49 (1) (h) of the constitution, provides that bail is a constitutional right of every accused/arrested person and can only be denied where compelling reasons have been advanced by the `state.
6. In the instant case, the state, through Miss Mochama, indicated that they were not opposed to the accused persons being granted bond. I also note that the 1<sup>st</sup> accused had prior to the consolidation of this suit with Kisii HCCRC No. 30 of 2015 on 31<sup>st</sup> July, 2015 been granted bond of Kshs. 1,000,000/= with 2 sureties of a similar amount.
7. According therefore, I hereby allow the accused's application for bond and order that each accused person shall be released upon executing their own personal bond of Kshs. 500,000/= with each one of them furnishing two (2) sureties of a similar amount.

8. Upon their release, each accused person shall be expected to attend court whenever they are required to do so until the determination of this case or further orders of this court.

9. It is further ordered that in default of any one appearance without any justifiable cause, the bond will be cancelled forthwith and the sureties called to account.

10. It is so ordered.

**Dated, signed and delivered in open court this 3<sup>rd</sup> day of May, 2016**

**HON. W. A.OKWANY**

**JUDGE**

**In the presence of:**

- Otieno for the State
- Kaburi & Soire for the Accuseds
- Omwoyo court clerk