

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 52 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

PETER NJOROGE MUNGAI.....1ST ACCUSED

HARUN MUNGAI WANGARE.....2ND ACCUSED

HARUN MUNGAI KANGETHE.....3RD ACCUSED

RULING

The accused persons herein have brought the application seeking to be admitted to bail pending the hearing and determination of this case. The applications are filed separately. The applications by Peter Njoroge Mungai, 1st accused, and Harun Mungai Wangare, 2nd accused, are both dated 14th November 2016. I did not see an application by Harun Mungai Kangethe, 3rd accused. However, Mrs. Omungala, advocate canvassed the application on behalf of the three accused persons.

In the attached respective affidavits, the 1st and 2nd accused persons state that they are Kenya Citizens and that they will abide by the terms and conditions of bail that this court may set; that they are law abiding citizens who are able to live peacefully with members of society.

Mrs. Omungala submitted that the three accused persons are related and live in Karinde Village; that they do not hold passports and therefore cannot abscond; that the prosecution did not advance any compelling reasons to persuade this court to deny the three accused persons bail and that the three accused persons will not interfere or intimidate the witnesses.

The application was opposed by the prosecution counsel Ms Nduati who submitted that there is no evidence that the accused persons have a fixed abode and if released they may interfere with witnesses. Counsel relied on the Replying Affidavit sworn by Police Constable Abdidek Shariff Mohamed.

I have considered the application and the replying affidavit. Indeed other than stating that there is a “possibility that the accused persons could inflict genuine fear and anxiety in the potential witnesses”, the prosecution has not advanced evidence to support this. Court was told that there are three key witnesses but was not given the names of the three. I am therefore not persuaded that there are compelling reasons to deny the accused persons bail. I will and do hereby allow the application for bail in respect of the three accused persons in the following terms and conditions:

- (a) Each accused persons shall execute a bond of Kenya shillings one million (Kshs 1,000,000) with one surety of similar amount.
- (b) In the alternative, each accused persons shall deposit with the Registrar of this court cash bail of Kenya shillings five hundred thousand (Kshs 500,000).
- (c) The accused persons are cautioned against intimidating, interfering, threatening or doing anything towards the witnesses that might amount to subversion of justice.
- (d) Failure to abide by these terms and conditions of bail shall amount to immediate cancellation of

bail and immediate remand in custody until this matter is heard and determined.

Orders shall issue accordingly.

Dated, signed and delivered this 6th day of December 2016.

S. N. Mutuku

Judge