



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL CASE NO.71 OF 2013**

**REPUBLIC.....RESPONDENT**

**VERSUS**

**JONATHAN LEMISO OLELKINI.....APPLICANT**

**RULING**

The accused, **Jonathan Lemiso Ole Likini**, is facing trial for the murder of one Simon Koli. The offence is stated to have been committed on 25<sup>th</sup> June 2013 at Maasai Village in Embakasi Nairobi County. He has moved this court by notice of motion dated 12<sup>th</sup> July 2013 to be released on bail pending trial. He relies on **Section 49 (i) h of the constitution** and further states that he will attend his trial if released on bail. He also states that he is a family man, and he will not leave the jurisdiction of the court. Further he avers not to interfere in any way with prosecution witnesses.

The State opposes the application on the grounds that the accused was likely to interfere with key prosecution witnesses and may abscond. The investigating officer, **Cpl. Erastus Ogada** has sworn a Replying affidavit stating that the accused may intimidate key prosecution witnesses who are well known to him and particularly D1 who is the main witness in the case. It is his further averment that the accused being a Kenya Wildlife Service warder may access a firearm and so intimidate civilian witnesses. At paragraph 10 of his replying affidavit, the investigating officer avers that the accused was a flight risk as he escaped from the scene of crime at Embakasi to Mai Mahiu where he was arrested.

The application has been greatly contested. At the hearing on 6<sup>th</sup> November 2013, defence counsel discounted the averments in the lengthy affidavit of **Cpl. Erastus Ogada** and the submissions of the prosecution counsel.

Having carefully considered the application, I take the view that the prosecution has discharged its burden in demonstrating compelling reasons why the accused should not be granted bail.

I am persuaded that the accused is likely to interfere with and or otherwise intimidate prosecution witnesses and particularly D1 who is stated to be a person well known to the accused and a key eye witness. Further I am persuaded by the accused's antecedent that he is likely to abscond trial.

The application dated 12<sup>th</sup> July 2013 is thus dismissed.

Orders accordingly.

**Ruling delivered, dated and signed at Nairobi this 13<sup>th</sup> day of February, 2014.**

**R. LAGAT - KORIR**

**JUDGE**

**In the presence of:**

.....: **Court clerk**

.....: **Applicant**

.....: **For the applicant**

.....: **For the State/respondent**