



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT HOMA BAY**

**COURT CRIMINAL CASE NO. 2 OF 2014**

**STATE ..... PROSECUTOR**

**VERSUS**

**MAROA STEPHEN MASANCHU ..... ACCUSED**

**RULING**

The accused **MAROA STEPHEN MASANCHU** is facing a murder charge. He is alleged to have murdered one **BEATRICE ATIENO ANYACH** on the night of **10<sup>th</sup> – 11<sup>th</sup> January, 2014** at Rodi Kopany Trading Centre in Homa Bay County.

The State opposes bail on the ground that the accused is of Tanzania Nationality and poses a flight risk. Moreover it states that the accused fled from the crime scene after the incident as was found in a hideout near Kuria District near the Tanzania Border. The opposition is the subject of the affidavit of CPL. Paul Muriithi sworn on the **9<sup>th</sup> May, 2014** and the supplementary affidavit sworn on **12<sup>th</sup> May, 2014**.

That an accused has a right to bail is not disputed. Under **Article 49** of the Constitution, the State must displace the presumption by furnishing evidence of exceptional circumstances to displace the right to bail. The right to bail is not intended to punish the accused but to ensure that he attends trial. I have considered the depositions, and I am not convinced that it has been established that the accused is a Tanzania National but I am satisfied that his place of abode remains unknown and releasing him at this stage may jeopardize the trial as he is a flight risk. I decline to release him on bail at this stage.

**DATED and DELIVERED at HOMABAY this 12<sup>th</sup> DAY OF JUNE 2014**

**D. S. MAJANJA**

**JUDGE**