REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 129 OF 2012

STATE……PROSECUTOR

VERSUS

ANTONY MUTAI……ACCUSED

RULING

1. The accused herein, **Anthony Mutai**, is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. It is alleged that he murdered Wesley Ngetich on the 10th day of October, 2012 at Kiptenden village Ngendalel sub-location, Angata Barriko Location in Transmara District within Narok County in the Republic of Kenya. He denies the charge. He now asks for bond for the court to release him pending the hearing and determination of his case.
2. The application is brought under **Article 19,20,21,22,23,25,28,48,49 (1)(h) & 50** of the constitution and is dated 11th December, 2012. Under **Article 49(1)(h)** the accused has a right to be released on bond or bail, on reasonable conditions pending a trial unless there are compelling reasons not to be released. The state has a duty to show cause that there are compelling reasons why the accused in this case cannot be released on bond.
3. In this case the state raised no objection to bond application. The purpose of granting bail or bond is to secure the attendance of the accused in court from the safety of his own home environment.
4. In the circumstances, I find that since the prosecution has no objection to the accused being released on bond and pre-bail probation report is favourable, thus there are no compelling reasons why the accused's application should not be granted.
5. Accordingly, I allow the application dated 10th December, 2012 and order that the accused is to be released on his own personal bond of Kshs. 1,000,000 with two sureties of similar amount to be approved by the Deputy Registrar of this court.
6. Upon his release, the accused shall attend court for the mention of his case once a month until the case is heard and determined. The first mention shall be on 23rd of November, 2014.
7. It is so ordered.

Ruling dated and delivered at Kisii this 3rd day of November, 2014.

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Magara holding brief for Ondari for the applicant.

Imbali for the state for the respondent.

Edwin Court Clerk.