



**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CRIMINAL CASE NO 5 OF 2012**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**NELSON KARIUKI ELIJAH.....ACCUSED**

**RULING**

1. The Accused in this case is charged with **murder** contrary to **section 203 as read with section 204** of the **Penal Code**. The **Information dated 14<sup>th</sup> February 2011** alleges that on 2<sup>nd</sup> February 2011 at Njoguini Sub-location in Murang'a District within Central Province he murdered one **Stephen Mwangi Wambuiya**. His plea was taken at the High Court, Nyeri on 14<sup>th</sup> February 2011. He pleaded not guilty. His case was eventually transferred to this court. It is not quite clear from the record why his trial has not commenced yet.

2. The Accused has now applied by **notice of motion dated 6<sup>th</sup> May 2014** for his release on bail pending his trial. The Republic has not opposed the application, urging only that if bail is granted, suitable conditions be imposed to ensure that the Accused attends court as and when required for his trial. Learned State Counsel also stated that the investigating officer of the case said he did not find any compelling reason to seek to deny the Accused bail.

3. Bail pending trial for any offence is a constitutional right enshrined in **Article 49 (1) (h)** of the **Constitution of Kenya 2010**, which will be denied only if there is compelling reason for the Accused not to be released. No compelling reason has been urged by the Prosecution. I have on my own read through the witness statements recorded by the police, and provided to the Accused and the court; I have thus noted the circumstances of the alleged offence. I find no compelling reason to deny the Accused bail.

4. The Accused shall be released upon his own cognizance in the sum of KShs 300,000/00 plus two (2) sureties in like sum to be approved by the Deputy Registrar of the court. Those will be the orders of the court.

**DATED SIGNED AND DELIVERED AT MURANG'A THIS 5<sup>TH</sup> DAY OF DECEMBER 2014**

**H.P.G.WAWERU**

**JUDGE**