



REPUBLIC OF KENYA

High Court at Eldoret

Criminal Case 67 of 2012

REPUBLIC.....PROSECUTOR
VERSUS

JAMES KIPROTICH BORE.....ACCUSED

RULING

The Applicant is a Forest Guard, who has been charged with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code.

Under the provisions of Article 49 of the Constitution of Kenya, 2010 any Accused person has a general right to bail irrespective of the offence committed.

The only reasons when bail can be denied are if there is a likelihood that the Accused may abscond, commit other offences or interfere with witnesses. The court may also deny bail where there are other compelling reasons.

After hearing the lengthy arguments and submissions of both Counsel and upon perusal of the Probation Officers Report this court concurs with the submissions of Counsel for the State and the finding of the Probation Officer that currently the situation on the ground is tense, volatile and that there is a lot of bad blood between the deceased's family and the Applicant.

This court also has judicial notice that the relationship between the community and the Forest Guards is acrimonious. To release the Applicant on Bail at this point in time will not only endanger the life of the Applicant but also the lives of the other Forest Guards based in the area the incident occurred.

When the tension and temperatures cool down, the Applicant is at liberty to make a fresh application for admission to bail.

For the reasons stated above, this court finds that there are compelling reasons to deny the Applicant admission to Bail and the application is therefore disallowed.

It is so ordered.

Dated and delivered at Eldoret this 1st day of November 2012.

A.MSHILA
JUDGE

Coram: Before Hon. A Mshila J
CC: Andrew
Counsel for the Applicant: Mokua

Counsel for the State: Wainaina

**A.MSHILA
JUDGE**