



## REPUBLIC OF KENYA

### Cases in Magistrate Courts

### Criminal Case 4 of 2003

REPUBLIC.....PROSECUTOR

VERSUS.

JANE ALICE OKOTH.....ACCUSED.

### RULING.

The accused is charged with murder c/sec 203 as read with S. 204 of the Penal Code. The particulars are that on 8.1.2013 at Nyakweri village, Mfangano North Location in Mbita District within Homa Bay County murdered CHARITY NGILU OKOTH.

She pleaded not guilty to the charge. Her Advocate, Mr. G.S. Okoth applied for her to be released on bond pending the trial. He submitted that it is her constitutional right and that she shall furnish securities and abide by any terms set by the court. She is a mother and her children need her love.

The application was not opposed. Miss Valery for the Republic only asked that the terms be such that the accused does not abscond.

Bail/bond is a constitutional right under Art. 49(1) (H) of the constitution. However that right is not absolute and may be withheld where there are compelling reasons. The said compelling reasons are proved by the prosecution. In this case the state has no objection to the application for bond.

This court has therefore no reason to refuse the application. The constitution requires that the conditions be reasonable but this court must also give consideration that the terms must be such that the accused does not abscond.

Accordingly the accused is released on bond as follows:

- 1. That the accused person shall execute a bond of Kshs.3 million with 1(one) substantial surety of similar amount.***
- 2. Sureties to be approved by the Deputy Registrar***
- 3. That pending the trial she shall attend court once every month for the mention of her case the first such mention being on 24.5.2013.***
- 4. That she shall pending the trial report to the nearest Police Station once a fortnight and in the event that she does not do so she shall be immediately apprehended and brought to court.***
- 5. Hearing on 24.6.2013.***

Signed, dated and delivered in Homa Bay this...3rd day of May 2013

**E.N. MAINA**

**JUDGE**

In presence of:-

Miss Valery for the state.

Miss Nekesa for the accused.

Accused person

Eudice Okombo Dholuo interpreter.