



## REPUBLIC OF KENYA

### Cases in Magistrate Courts

### Criminal Case 20 of 2013

REPUBLIC.....PROSECUTOR

VERSUS  
ISMAEL OWIRO NDIRE & ANOTHER.....ACCUSED  
RULING.

The accused persons are charged with murder c/sec 203 as read with S. 204 of the Penal Code in that on 2<sup>nd</sup> December, 2012 at Adek Village in Unga Sub Location in Ndhiwa District within Homa Bay county in the Republic of Kenya murdered Lucas Odhiambo Anyore.

They pleaded not guilty to the charge and have through Mr. Nyauke, Advocate sought to be released on bond pending the trial. Miss Nekesa who represented them at the hearing of the application urged the court to grant terms that the accused persons would adequately meet.

Miss Valery for the State had no objection but prayed that terms be such that the accused persons shall turn for the trial.

Article 49(1)(h) provides for the accused's right to bail/bond upon reasonable terms unless there are compelling reasons. The onus to demonstrate compelling reasons not to release an accused person lies with the prosecution. In this case learned counsel for the state has submitted that she has been instructed not to oppose bail.

Accordingly, this court grants the accused person bond on the following terms. In doing so I have taken into account the seriousness of this offence:

1. ***That each accused person shall execute a bond of Kshs.3 (three) million with 2 (two) sureties of like amount.***
2. ***The Deputy Registrar shall examine and approve those sureties.***
3. ***That the accused persons shall avail themselves in court once every month until the trial is concluded.***
4. ***Hearing on 10.6.2013.***
5. ***Should the accused persons execute the bond and furnish the court with sureties/securities first mention be on 25.4.2013.***

Ruling dated, signed and delivered at Homa Bay this 28th day of March 2013.

**E.N. MAINA.  
JUDGE.**

In the presence of:  
Eudice Dholuo interpreter.  
Miss Valery for the Republic  
Mr. Nyauke for the Accused.  
Accused person.