



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Njogu (Criminal Case 51 of 2019)
[2023] KEHC 22794 (KLR) (28 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22794 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 51 OF 2019
PM MULWA, J
SEPTEMBER 28, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL KAHARA NJOGU ACCUSED

RULING

1. The accused person herein Samuel Kahara Njogu is charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars are that on October 25, 2019 at Irikiya Village in Githiha Sub-location Githunguri Sub-County within Kiambu County murdered Margaret Wairimu Njogu.
2. On January 15, 2020, the accused denied the charge and a plea of not guilty was entered.
3. Counsel for the accused pleads with the court to release the accused person on lenient bond terms, contending that he is not a flight risk and that he will attend court whenever required and abide by any other conditions the court may set.
4. The state opposed the release of the accused on bail. In an affidavit sworn by Cpl Richard Kemei and filed in court on January 22, 2020 it was averred that the deceased was the accused person's biological mother and the family members were apprehensive that he posed danger to them and had threatened them against testifying in this matter. It was further stated that villagers at Irikiya were still very angry with the accused and that he would not be safe if released on bail.
5. The court called for a pre-bail report and one was filed on July 31, 2023. The community and family members deem the offence committed by the accused to be serious and do not want to associate with him. For their own safety and that of the accused they would rather he attends court proceedings while he is in remand.



6. The pre-bail report states that none of the family members is supportive to the accused and none will be willing to stand surety for him.
 7. Article 49(1)(h) of the *Constitution* guarantees an arrested person the right to be released on bond/bail on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.
 8. This court in exercising its mandate to either grant or deny bail pending trial is guided by the Judiciary Bail and Bond Policy Guidelines which recognize that an accused person should be released on bond pending trial unless there are compelling reasons. The prosecution is vested with the duty to bring to the attention of the court any compelling reasons that would warrant the denial of bond/bail pending trial.
 9. The prosecution has demonstrated that there is a likelihood of the accused interfering with witnesses if released on bond. His release may also pose a danger to other family members as well as to himself and therefore this makes him a flight risk.
 10. There exists compelling reason for this court to exercise its discretion and deny the accused person bond/bail.
 11. The upshot is that the accused person's application to be released on bond pending trial is declined.
- It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 28TH DAY OF SEPTEMBER 2023.

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P.M. MULWA

JUDGE

In the presence of:

Kinyua/Duale – court assistants

Mr. Gacharia - for the state

Mr. Olaka - for the accused person

Accused – present in court

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