



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 18 OF 2017

BETWEEN

REPUBLIC.....PROSECUTOR

VERSUS

LEAH WANJIRU WANYOIKE.....ACCUSED

RULING

1. **LEAH WANJIRU WANYOIKE** is charged with the offence of murder. On 29th May, 2017 she pleaded not guilty. On 9th May, 2017 the court granted the accused bail on condition she provides bond of Kshs.500,000 with one surety of similar amount. The proceedings of this matter reflects that on 11th October, 2017 the court noted:-

“The court notes that the accused has an infant who is 3 months old who was born while in remand. Consequently, the court varies the bail terms to bond of Kshs.300,000 and one surety of similar amounts”

2. The accused secured a surety and on that surety being approved by the court, she was released from remand.

3. Although the accused proposed to enter into plea bargain the same was not acceptable to the victim’s family.

4. The trial commenced and witnesses have testified in this case. The only remaining witness is the pathologist. The case was before court on 3rd March, 12th April, 14th June, 7th September, 2021, when the accused was absent. Again, on 13th October, and 10th November, 2021, the accused failed to attend court and warrant of arrest was issued against her. On 9th December, 2021, when accused attended court, she said:-

“I had difficulty in (sic) transport. I was late yesterday. I am sorry for being late.”

5. The court lifted the warrant of arrest but on 9th December, 2021 warrant of arrest was issued in absence of accused. The court ordered the accused to be remanded in custody. She has remained in custody to date.

6. Before court is application by the accused dated 25th January, 2022. Accused seeks reinstatement of her bond terms. Accused has based her application on the ground that she faithfully attended court several times except 17th December, 2019 and 7th September, 2021 when she arrived in court late and on 13th October, and 8th December, 2021 when she failed to attend court. Accused deponed that she has been sick for a long time and has been taking medicine which has been debilitating. Accused attached an illegible document which she described as medical report. She also deponed that due to her illness she had depended on her sister to accompany her to court but her sister after giving birth could not assist her.

ANALYSIS AND DETERMINATION

7. The accused when she was granted bail was required to attend court whenever the case was listed for hearing. She frequently failed to attend court which behaviour has caused delay in the conclusion of this case where the offence occurred in 2017.

8. The accused produced illegible document which she termed as medical record showing she has been unwell. She also deponed that her failure to attend court was when her sister gave birth and was unable to accompany her to court. There is no evidence of the accused being unwell to justify her failure to attend court and there is no evidence that her sister (whose identity was not disclosed) gave birth.

9. This Court is not at all convinced with the reasons given by the accused on her failure to attend court. It is because of the above that I order the notice of motion dated 25th January, 2022 be and is hereby dismissed.

10. At the reading of this Ruling, a date shall be fixed for further hearing of the prosecution's case.

RULING DATED AND DELIVERED AT KIAMBU THIS 31ST DAY OF MARCH, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice

For DPP :- Mr. Kasyoka

Accused : - Present

For accused : Mr. Kiunga

COURT

RULING delivered virtually.

MARY KASANGO

JUDGE