



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 20 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

SIMON MBURU MUTHONI.....ACCUSED

RULING

1. The accused prays for *bail* pending trial. The application is *not* contested by the Republic.
2. I find that the *pre-bail report* filed on 27th October 2020 to be largely positive.
3. However, the victim's family is understandably bitter and amongst over the loss of their kin. They claim that the family of the accused "*deserted them and never attended the burial*". They also expressed fears that the accused "*may*" harm those who are pursuing the criminal proceedings.
4. The accused is charged for the murder of *Cecila Wanjiku Gitau* on 30th July 2020 at Wemba Sub-Location, Mitubiri Location, Murang'a South County within Murang'a County.
5. The **Victims Protection Act 2014** requires the views of victim's family to be taken into account at this stage. I commiserate with the family over their loss but I find *no* concrete evidence at this stage of further threats by the accused to prospective witnesses.
6. The accused is deemed *innocent* at this juncture. Under **Articles 49 (1) (h)** and **50** of the **Constitution**, he is entitled to bail pending trial *unless* there are *compelling* circumstances.
7. Furthermore, the overarching objective of bail is to ensure the accused *attends* his trial. ***Muraguri v Republic*** [1989] KLR 181.
8. From the social report, I find *no compelling* reasons for denial of bail. The accused may be released upon execution of a bond in the sum of Kshs 500,000 together with *one* surety of a similar amount. The surety shall be examined and approved by the Deputy Registrar of this Court.
9. There are two further *conditions*. First, the accused shall *not* have any *direct or indirect* contact with the *twelve* witnesses named on the reverse of the *information* charging him with murder. Secondly, he shall attend *all* mentions or hearings of this case.
10. In default of *any* of the *two* conditions above, his bond shall stand cancelled; and, the surety shall be called to account.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 26th day of January 2021.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused absent due to Covid-19 Prison Protocols.

Mr. S. Mutinda for the Republic.

No appearance by counsel for the accused.

Ms. Dorcas Waichuhi, Court Assistant.