



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KIAMBU**

**CRIMINAL CASE NO 24 OF 2020**

**REPUBLIC.....DPP**

**VERSUS**

**STEPHEN GIKUHI MWIRIGI.....ACCUSED**

**R U L I N G**

1. **Stephen Gikuhi Mwirigi** pleaded not guilty to the charge of Murder. He is now waiting for his trial to commence. He has applied that he be granted bail. The application was not opposed by the Director of Public Prosecution (DPP).
2. The Accused is the last born child in a family of four other children. His mother has passed away and his elderly father resides in half acre land in Munyu which land has no title deed.
3. The Accused is a 32-year-old man. He was married to the victim the deceased in this case. They were blessed with one child.
4. The victim's family is not in favour of the Accused being released on bail. They still hold a lot of bitterness towards the Accused. The aunt to the victim is also fearful of the release of the Accused on bail. She is of the view that because she was not in favour of the relationship between the victim and the deceased. she fears the Accused may be harbouring resentment towards her.
5. The Constitution under Article 49(1) (h) confers right to bail to arrested persons. That right is not absolute. Bail may be denied where there are compelling reasons. In this case I find no compelling reasons to deny Accused bail. I will however bear in mind that the Accused is facing a serious charge, a murder charge. The court in the case **Republic –v- Robert Zippor Nzilu (2018) eKLR** considered the gravity of the charge when determining an application for bail as follows:

**“10. Gravity of the offence as a consideration was appreciated by Mbogholi Msagha, J in *Criminal Application No. 319 of 2002 Priscilla Jemutai Kolonge vs. Republic (unreported) at page 3, wherein he held as follows:***

***“However, the nature of the charge or offence and the seriousness of the punishment if the applicant is found guilty must be considered in applications of this nature. I subscribe to the observation that where the charge against the accused is more serious and punishment heavy, there are more probabilities and incentive to abscond, whereas in case of minor offences, there may be no such incentive.”***

6. Having considered the pre-bail report presented before me I grant the following orders:

- (a) Stephen Gikuhi Mwirigi shall be released on cash bail of Kshs.1,000,000 (ONE MILLION) pending his trial.
- (b) His release on bail is conditional on him not interfering with the prosecution's witnesses

**SIGNED AND DELIVERED VIRTUALLY THIS 11<sup>TH</sup> DAY OF FEBRUARY 2021.**

**MARY KASANGO**

**JUDGE**

11<sup>th</sup> February 2021

Before Justice Mary Kasango

C/A - Kevin

Accused – Stephen Gikuhi Mwirigi - Present

For the Applicant – Miss Njoroge for Mbiyu Kamau

For DPP – Ms Kathambi

**COURT**

Ruling virtually delivered in their presence.

**MARY KASANGO**

**JUDGE**