



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

CRIMINAL CASE NO. E005 OF 2021

REPUBLIC.....PROSECUTOR

VS.

TERESIA WANJIRU NJUGUNA.....ACCUSED

RULING

1. **TERESIA WANJIRU NJUGUNA** is charged with the offence of murder contrary to Section 203 as read with section 204 of the Penal Code. The person it is alleged she killed was her husband. She pleaded not guilty to the offence is not waiting for her trial.
2. The pre-bail probation report reveals the accused is a 63 year old lady. She is said to be gravely ill. She is suffering from Rheumatoid arthritis. She was due to undergo surgery in January, 2021. Her family is in support of her release on bail.
3. One of the investigating officers of this case Cpl. Joseph Omwenga filed an affidavit opposing the application for bail. The opposition is on two grounds that the community is hostile towards the accused, that she is a flight risk and that she may interfere with witnesses.
4. The accused countered that opposition by stating, through her learned counsel, by submitting that she is not a flight risk, and that she is ailing.

ANALYSIS

5. Accused is awaiting for her trial for the offence of murder. The gravity that offence is material in in consideration of the terms of bail condition. The gravity of the offence was made mention of the in the case of **REPUBLIC VS. ROBERT ZIPPOR NZILU (2018) eKLR** thus:-

*“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. Bearing in mind that the accused has undertaken to move out of her locality to ensure that the community does not endanger her life and because she is constitutionally entitled to bail pending trial and because there are, otherwise, no compelling reasons to deny her bail, I will grant her bail pending trial.

DISPOSITION

7. I order **Teresia Wanjiru Njuguna** to be released on bail pending her trial on the following conditions:-

- (a) That she provides bond of Kshs.500,000/= and two sureties of like sum;
- (b) That she does deposit into this Court her passport;
- (c) That she does reside outside Kiamwangi location, Gatundu South sub-county Kiambu County during the duration of her trial; and
- (d) That she does not either directly or indirectly interfere with the prosecution’s witnesses.

RULING DATED AND DELIVERED AT KIAMBU THIS 19TH DAY OF APRIL, 2021.

M. KASANGO

JUDGE

Coram:

C/A : Kevin

For the

Applicants.....Ongoto

For the Respondent.....Kasyoka

COURT

Ruling delivered virtually.

MARY KASANGO

JUDGE