



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 42 OF 2020

REPUBLIC.....PROSECUTOR

VS.

JAMES WAMBUA MUUO Alias KASEE.....ACCUSED

RULING

1. This is a ruling of the notice of motion application dated 16th November, 2020. The application is filed by **JAMES WAMBUA MUUO** alias **KASEE** (accused). The accused by that application seeks his release on bail pending his trial for the offence of murder.
2. I have considered the pre-bail probation report, on the accused. That report shows that accused is a 22 year old man. He resided with his father in Kikuyu who works as a Labourer in that area. The victim's family confirm that the deceased and the accused were good friends. The victim's family has forgiven the accused.
3. The application for bail was not opposed by prosecution and the pre-bail probation report is also not adverse to the accused being released on bail pending his trial. **Article 49(1)(h)** of the Constitution requires an arrested person to be released on bond or bail on reasonable conditions unless there are compelling reasons not to be released. What can amount to being a compelling reason was considered in the case of **REPUBLIC VS. FRANCIS KIMATHI (2017) eKLR** thus:-

*“I have considered this application. Needless to state that, by dint of the Constitution of Kenya, 2010, all offences are bailable. More specifically, Article 49 (1) (h) thereof provides that an arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released. There may not be a scientific measure of what exactly amounts to compelling reasons as that would depend on the circumstances of each case. Except, however, compelling reason should be a reason or reasons which is rousing, strong, interests attention, and brings conviction upon the court that the accused person should be denied bail. Flimsy reasons will not therefore do. Therefore, the standard is high for it draws from the constitutional philosophy that any restriction of rights and freedoms of persons must be sufficiently justified given the robust Bill of rights enshrined in the Constitution. I need not aver-emphasize these matters except to cite the case of **R vs.**”*

Coram:

C/A : Kevin

Accused: Irungu

For the Accused.....Mr. Kasyoka

For the Prosecution.....

COURT

Ruling delivered virtually.

MARY KASANGO

JUDGE