



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL CASE NO. EO16 OF 2020**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MUTUSE MUTINDA.....ACCUSED**

**R U L I N G**

1. The accused Mutuse Mutinda faces a charge of murder contrary to Section 203 as read with Section 204 of the penal code.
2. Particulars are that Mutuse Mutinda on the 23<sup>rd</sup> day of October 2020 at Miritini estate in Jomvu Sub-County within Mombasa County murdered Judith Mwanzia.
3. The accused pleaded not guilty and a plea of not guilty was entered by the court. The Investigating Officer P.C. Muturi Kalejoha filed an affidavit in which he opposed accused persons release on bail pending trial for reasons that accused is likely to interfere with witnesses some of whom are close relatives of the deceased and deceased 3 years old son who witnessed when he committed the offence.
4. A pre-bail Report was also filed by Rosemary Nyong'a said that in event that accused is released he should be warned to stay away from Miritini in Jomvu as his safety is not guaranteed.
5. The accused persons counsel was to file a replying affidavit but to date there is none in the file and therefore the investigating officer's concerns have not been objected to. The probation officer has not specified where in Mombasa the accused would reside if released on bond and what would prevent those who are a threat to his life in Jomvu to reach him anywhere else in Mombasa as Jomvu is also in Mombasa County.
6. I do find it will be safe for the accused to remain in custody until the prosecution avails its chief witnesses before the court can make an order releasing the accused on bail.
7. Orders accordingly.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MOMBASA THIS 27TH DAY OF MAY, 2021.**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**