



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO E006 OF 2021

REPUBLIC.....PROSECUTOR

VERSUS

KELVINE NASIAHO WANYONYI.....ACCUSED

RULING

1. Kelvine Nasiaho Wanyonyi (Accused) is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 Laws of Kenya. The particulars of the offence are that on the 24th day of April 2021 at Kaproret estate of James Finlay Tea Estate Saosa Sub-location in Konoin Sub-County within Bomet County jointly with another not before court, murdered one Noah Mukachelelwa Mtenyo.

2. The Accused took plea on 6th May 2021 and pleaded not guilty. The case has already gone through a pre-trial and is set to commence on 23rd November 2021.

3. The Accused now seeks to be released on bail pending trial. In urging the application, learned defence counsel Ms. Chepkemai submitted that the Accused hailed from Kakamega County and was not a flight risk; that his family members were willing to stand surety for him and ensure his attendance at his trial. Counsel prayed for reasonable bond terms.

4. Mr. Murithi for the prosecution submitted that the pre-bail report filed by the Probation Officer was favourable to the Accused. He left the matter to the discretion of the court.

5. I have considered the application. A bail information report filed by the Probation Officer states that the Accused and the deceased both hailed from Kakamega County where they were neighbours and that at the time of the commission of the offence, they both lived together at the James Finlay Tea Estate in Bomet County where they worked as casual labourers. The report further states that the Accused had a fixed abode and was not a flight risk. It recommends his release on bail.

6. I have observed that the Prosecution has not opposed the application and neither have they brought to the attention of the court the existence of any compelling reasons as envisaged in Article 49 (i) h of the Constitution.

7. It is trite that the primary purpose of bail is to secure the Accused's attendance at trial. In this case, it has been demonstrated that the Accused was willing to attend trial and that the sureties were ready to ensure his attendance.

8. Having taken all factors into consideration, I grant the Accused bail on the following conditions:-

- i. The Accused shall execute a personal bond of Kshs.300,000/= and provide 2 sureties of similar amount each.
- ii. He shall not interfere with prosecution witnesses in any way.
- iii. He shall attend court whenever required and shall not impede the trial in any way.

9. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 29TH DAY OF JULY, 2021

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R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Defence Counsel Ms. Chepkemoi, Mr. Murithi for the DPP, and Kiprotich (Court Assistant).