

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIVASHA

CRIMINAL CASE NO. E016 OF 2021

REPUBLIC.....PROSECUTOR

-VERSUS-

SAMSON KARWENDO WAWERU.....ACCUSED

RULING

1. The Accused herein has been charged with murder contrary to **Section 203** as read with **Section 204** of the **Penal code**. The particulars are that on the 30th day of September, 2021 in Rwanyambo village in Kinangop Sub County within Nyandarua County murdered **Benson Wanjau Waweru**.
2. On 21st October, 2021 upon taking plea, the Accused made an oral application to be released on bail or bond pending trial.
3. Ms. Maingi for the Prosecution did not oppose the application. She stated that there are no compelling reasons to object to the release of the Accused on bond. She however urged that a pre-bail report be called for because the offence in question involved members of the same family. In that regard, she noted that the Accused is alleged to have killed his brother hence it is important to assess if it is safe for him to return home since it is said that they had been living together in the same house.
4. According to the Pre-Bail Report filed in court on 3rd November, 2021, seven out of eight of his siblings as well as the local area senior assistant chief had no issue with the release of the accused person on bond. His family members are ready to deposit a land title deed as surety to secure his release on bond. The deceased wife was however opposed to his release and still harbors bitterness towards him due to the loss of her husband who was their provider. The report concludes that there are no compelling reasons to deny the Accused bond.
5. Under Article **49(1) (h) of the Constitution**, an arrested person has the right to be released on bond or bail on reasonable terms pending a charge or trial unless there are compelling reasons to warrant denial of the same. Since no compelling reasons have been alluded to in this case, nothing prevents the court from granting the Accused bail or bond. In the premises, I hereby order as follows:-

i. The Accused shall be released on paying cash bail of Kshs. 250,000/=.

ii. Alternatively, the Accused may be released on a bond of Kshs. 500,000/= plus one surety of similar amount.

iii. The surety shall be approved by the Deputy Registrar of this court.

iv. The Accused is cautioned that if he fails to attend court for his trial, he will be re-arrested and his bail/bond shall be cancelled immediately.

DATED AT NAIVASHA THIS 25TH DAY OF NOVEMBER, 2021.

G.W.NGENYE-MACHARIA

JUDGE

In the presence of;

1. Mr. James Mururi for the Accused.
2. Ms. Maingi for the Prosecution.