



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NUMBER 80 OF 2014

REPUBLIC.....ODPP

VERSUS

JOAN CHEPKEMOI ROTICH.....ACCUSED

RULING ON BAIL

1. The accused person Joan Chepkemoi Rotich was charged with **Murder Contrary to Section 203 as read with 204 of the Penal Code**. It was alleged that on 30th June 2014 she together with others, murdered Brian Kiprono Rotich.
2. A *nolle prosequi* was entered with respect to the accused, leaving Joan and another. They took plea on 15th May 2015 where she pleaded not guilty.
3. On 20th May 2015 she was granted bail of Kshs. 500,000/= with one surety of similar amount.
4. On 11th June 2015, a surety was approved for the first accused and she remained in custody. The accused has been in custody since she took plea. I am the fifth judge to handle her matter. I note that the bond terms have remained the same and over all the years she has never been able to raise bond. I noted that when plea was taken the Judge then sought for Pre Bail Reports. By the time bond was granted no Pre Bail Report had been availed but it was clear that the prosecution had no objection to bail.
5. I sought a Pre Bail Report which was filed on 7th December 2021 by the Probation Officer. From the report the accused was born in 1980, sat Kenya Certificate of Primary Education (KCPE), got 540 out of 700 marks and grade C-(minus) at form four (4).
6. After failing to get the college she got married to the deceased in 2001 at twenty one (21) years and got four (4) children, the last born being nine (9) months old at the time of the alleged offence. Her children have been split among the relatives, the first one living with the maternal grandparents, the rest with the paternal relatives.
7. The family of the deceased would not want her back in her home so if released she would have to live with her parents. Her parents are ready to take her back if released. She is not a flight risk. Her mother is a cook in the local Primary School. However, the Probation Officer focused on the relatives of the deceased and did not see the views of the children of the deceased. These were the immediate victims of the alleged offence and their views are important with regard to the release of their mother. The Probation Officer did not tell the court whether in the seven (7) years the accused has been in custody there has been any contact with the children. What the Probation Officer brought out was the hostility of the inlaws. That is expected, but what about the accused's own children? This is expected by the **Victims Protection Act**.
8. Be that as it may, I am certain that this is a case that calls for review of bond, free bond. The accused's mother works as a cook in the local Primary School, the family lives on a twelve (12) acre piece of land in the name of their grandfather as succession has not been done. This is a family that is settled, is grounded in their family.
9. The accused is a mother of four (4) children, she had a fixed abode, two (2) children in Secondary School, two (2) in Primary School, there is little possibility of her being a flight risk. To enable the court determine the bond terms;

I direct:

1. **That the Probation Officer avail a further Probation Officer's Report with the views of the children.**

2. That the mother avails a letter from the school to confirm her employment at the school.
3. A letter from the chief, that the family lives in his locality.
4. Full photographs, one each of the mother and father.
5. Copies of their identity cards.

Dated, Signed and Delivered at Nakuru this 20th day of December, 2021.

Mumbua T. Matheka

Judge

In the presence of:-

Court Assistant Lepikas

Accused present

Maragia for accused