



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CRIMINAL CASE NO. 27 OF 2019**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHN MUTUOTA MACHITI.....ACCUSED**

**RULING**

1. The accused prays for bail pending trial.
2. His learned counsel, *Mr. Kirubi*, submitted that the pre-bail report filed in court is favourable. He said that the family members are not opposed to the release of the accused.
3. Although the Director of Public Prosecutions does not oppose the application, he opines that the accused should relocate from the *locus in quo*. The pre-bail report indicates that some family members are willing to host the accused at Ruiru.
4. The overarching objective of bail is to ensure the accused *attends* trial. See *Muraguri v Republic* [1989] KLR 181, *Republic v Elias Kipkemoi*, Eldoret High Court Criminal Case 42 of 2014 (unreported).
5. Other relevant matters to be considered by the court include: the nature of the charge; the likely sentence; previous criminal records; the views of the family of the victim; the possibility of *interference with witnesses*; the temptation to abscond; and, the *safety of the accused*.
6. The accused is presumed *innocent*. Under **Article 49 (1) (h)** of the **Constitution**, he is entitled to bail *unless* there be *compelling* circumstances.
7. The accused faces the grave charge of *murder*. The Director of Public Prosecutions informs the High Court that on the 13<sup>th</sup> September 2019 at Kigetuiini Village, Murang'a East Sub-County within Murang'a County he murdered *Morris Machiti Kamanda*.
8. From the *pre-bail report* dated 10<sup>th</sup> February 2020, the deceased is the *father* of the accused. Following the homicide, members of the public gave the accused a serious thrashing. He was rescued by a village elder and taken to Kenyatta Hospital. The local administration is opposed to his release as it would "*pose a security risk to the villagers and the accused*"
9. There are thus twin issues of *security* of the accused and the public. True, the risk can be ameliorated by relocating the accused. But it is not lost on me that the deceased was his *father*; and, that at least one of the witnesses listed on the reverse side of the *Information* is his *brother*, Duncan Muchoki. The likelihood of interference with the evidence is not far-fetched.
10. I thus find that there are strong and *compelling* reasons for denial of bail. Bail is *refused*.
11. Lastly, I sympathize with the injuries suffered by the accused. But I remain alive that he can get necessary medical attention in remand. In the interests of justice, I direct that the trial be *fast-tracked*.

It is so ordered.

**DATED, SIGNED and DELIVERED at MURANG'A this 27<sup>th</sup> day of February 2020.**

**KANYI KIMONDO**

**JUDGE**

**Ruling read in open court in the presence of-**

The accused.

Mr. J. Mbuthia holding brief for Mr. Kirubi for the accused.

Ms. R. Gichuru for the Republic.

Ms. Dorcas & Ms. Susan, Court Assistants.