

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL CASE NO.19 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

RICHARD MITHIKA KARUME.....ACCUSED

RULING ON BAIL

1. The Accused in this case, **RICHARD MITHIKA KARUME**, is charged with *murder* contrary to **sections 203 and 204** of the *Penal Code*. It is alleged in the information dated 22/10/2019 that on 28/06/2018 at Kibunja Market, Kiburaini Location in Kieni-East Sub-county of Nyeri County, he murdered one **STEPHEN KINGANGI**.

2. On 30/10/2019 the Accused pleaded not guilty to the charge. Hearing of the case was scheduled to commence on 19/02/2020 but did not as the Accused was not produced in court. Another hearing date will be given upon delivery of this ruling.

3. In the meantime the Accused has asserted his constitutional right to bail pending trial. The Republic has opposed by an affidavit sworn by the investigating officer of the case filed in court on 15/11/2019. The Accused responded by a replying affidavit on 27/11/2019.

4. Bail pending trial is now a constitutional right for all criminal offences. It can be denied only for compelling reason; and any condition that the court might impose for such bail, again by constitutional edict, must be reasonable. For all this see **Article 49(1)(h)** of the *Constitution of Kenya, 2010*.

5. I have read the two affidavits, one opposing bail and the other by the Accused asserting his right to bail. I have also perused the witness statements and documentary evidence supplied by the prosecution to the Accused and to court. I have noted the circumstances of the commission of the alleged offence and the aftermath, without compromising upon the Accused person's right to the presumption of innocence until proven guilty.

6. The Deceased was the Accused person's step-son as his (Deceased's) mother was the Accused's common law wife. The mother is one of the key witnesses. The other key witness is the Accused's step-daughter who is the elder sister of the Deceased.

7. The Accused was arrested more than a year after the alleged offence was committed. He was arrested far away in Narok Town, hundreds of kilometers from the scene of crime. It appears that immediately after the offence was committed the Accused fled the area and changed his mobile phone sim card. He was traced with the help of the mobile services provider, *Safaricom Ltd*.

8. In these circumstances, I am satisfied on a balance of probabilities that the Republic has proved the following two compelling reasons sufficient to deny the Accused bail –

a) He is clearly a flight risk.

b) There is a strong likelihood of interfering with at least two of the main witnesses (that is the mother and the elder sister of the Deceased) given his relationship to them.

9. In the result the Accused is hereby denied bail. He shall remain in custody for the duration of his trial. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 26TH DAY OF FEBRUARY 2020

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 27TH DAY OF FEBRUARY, 2020