



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 17 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

EDWIN CHOMBA MURAGE.....ACCUSED

RULING

1. The accused prays for *bail* pending trial. The Director of Public Prosecutions does *not* oppose the application.
2. 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). Under *Article 49 (1) (h)* of the **Constitution**, an accused person is entitled to bail *unless* there are *compelling* circumstances.
3. 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.
4. The **Victims Protection Act 2014** requires the views of victim's family to be taken into account at this stage. The family of the deceased is still grieving the loss of their loved one. The mother of the deceased is angst at the homicide and opposes the release of the accused.
5. The accused faces the grave charge of *murder*. The Director of Public Prosecutions informs the High Court that on 28th July 2019 at Kiarutara Sub-Location, Gatanga Sub-County of Murang'a County he murdered *Samuel Weka Juma*.
6. The *pre-bail report* dated 30th October 2019 is largely favourable save for the views of the mother of the deceased above. Like I stated, the Republic does not contest the application for bail.
7. I am alive that the charge of murder is a serious felony that *may* attract the death penalty. But at this juncture, the accused is still *presumed* innocent. Taking all factors into consideration, I find *no* compelling reason to deny him bail.
8. The accused may be released upon execution of a cognizance in the sum of Kshs 300,000 together with one surety of a similar amount. There will be *two conditions*: Firstly, he shall not interfere with witnesses; and, secondly, he shall attend all mentions or hearings of the case. In default, his bond shall be cancelled and the surety called to account.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 25th day of February 2020.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

The accused person.

Ms. Gichuru for the Republic.

Ms. Dorcas, Court Assistant.