



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 25 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

RUFUS NDIRANGU alias KENYATTA.....1ST ACCUSED

GEORGE MUHOHO KARANJA.....2ND ACCUSED

HENRY MWAURA MUKURU.....3RD ACCUSED

RULING

1. The three accused persons pray for bail pending trial.
2. Their learned counsel, *Mr. Gioche*, submitted that notwithstanding the charge, the accused enjoy the presumption of innocence. He challenged the conclusions by the Probation Officer that the 1st accused was a flight risk; or, that the security of all the accused would be in jeopardy. In a synopsis, he opined that there are no compelling reasons for denial of bail.
3. The Director of Public Prosecutions opposed the application on the basis of the findings in each of the three pre-bail reports dated 18th February 2020.
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. It is a truism that the accused is presumed *innocent*. Under **Articles 49 (1) (h)** and **50** of the **Constitution**, an accused person is entitled to bail *unless* there are *compelling* circumstances.
6. 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.
7. The **Victims Protection Act 2014** also requires that the views of victim's family be considered at this stage.
8. Each of the accused faces *two* grave counts of *murder*. The Director of Public Prosecutions informs the High Court that on the night of 21st September 2019 at Waitua village, Kandara Sub-County within Murang'a County they jointly with others not before the court murdered *Margaret Nyambura Ndung'u*. The second count states that on the same date and place, they jointly with others not before the court murdered *Benson Muhungi Ndung'u*.
9. From the three pre-bail reports, I find that all the accused are ineligible for bail. With regard to the 1st accused, his own family members acknowledged that he has no fixed abode. The probation officer concluded that he was a flight-risk.
10. It is clear that there is palpable anger in the village. The family of the two deceased persons is tormented by the loss of their relatives. The local administration is apprehensive that the security of *all* the three accused persons would not be guaranteed either. In particular, the 2nd accused is hesitant to return to the *locus in quo* as he fears for his life.
11. All those are serious and *compelling* reasons for denial of bail. The upshot is that bail is *refused* for all the accused.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 26th day of March 2020.

KANYI KIMONDO

JUDGE

Ruling read in chambers in the presence of-

All the accused absent in line with NCAJ's Covid-19 pandemic guidelines of 15/3/2020.

No appearance by counsel for the accused.

No appearance by counsel for the Republic.

Ms. Dorcas, Court Assistant.