



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CRIMINAL CASE NO.7 OF 2020

REPUBLIC.....APPLICANT

-VERSUS-

SHARON CHEBET.....RESPONDENT

RULING

1. This is a ruling on application for bond. The accused was charged with the offence of **Murder Contrary to Section 204 of the Penal Code**. Particulars are that on the 12th day of January 2020 at Ndashata Village in Neissuit Location in Njoro Sub County within Nakuru County, the accused murdered **Gladys Chebet Kosgei**.
2. The state opposed the accused being released on bond on reasons contained in affidavit sworn by the investigating officer **No.92589 PC Joseph Njogu** on 6th March 2020. He deponed that immediately after the incident, the accused fled from the scene and went into hiding and was arrested at Emuria Dikir Constituency after police got intelligence of her whereabouts.
3. Further that the accused is facing a serious charge of murder. He averred that the accused is a flight risk and if granted bond she may abscond and it will be hard to trace her.
4. The state counsel reiterated the investigating officer’s averment that the accused is a flight risk having been arrested form Narok South yet the incident occurred at Njoro.
5. Counsel for the applicant filed written submissions dated 8th June 2020. He cited the case of **Republic Vs Jackson Nzaghi Wambua [2020] eKLR** where **Justice Odunga** stated that, from constitutional point of view, the accused is entitled to be released on bond on reasonable terms and if the state opposes accused’s release on bond, it has the onus of demonstrating that there are compelling reasons to deny the accused constitutional right to bail.
6. The accused stated before the Court that she is 26 years old, married with 4 children the eldest being 10 years and youngest 2 years old. She said the children are being taken care of by her mother in law.

ANALYSIS AND DETERMINATION

7. A pre-bail report dated 22nd April 2020 was filed by the County Probation Officer. She stated in her report that she interviewed the accused’s relatives and Area Chief Murgor Sub-location, **David Korir**.
8. The Probation Officer indicates in her report that the accused’s family live in Murgor, that most of her family members are known by the local provincial administration and they do not have criminal record and can easily be traced. She stated that the accused was born in Transmara, she went to school there up to standard 5 when she dropped and got married to **Gilbert Bett** in the same area where she stayed until when she was invited to Nakuru County by her sister in law where they settled on quarter acre land and practiced farming until when the alleged offence was committed. She confirmed that the accused is a mother of 4 children aged between 2 and 10 years. She further stated that the accused’s neighbor in Murgor has offered a title deed as security for her to be released on bond and that he has assured her that he will ensure that she attends court if released on bond.
9. The Probation Officer stated that the victim herein is a lady who the accused suspected had an illicit affair with her husband; that the victim’s family are still angry and bitter but are not deemed as a threat to her as they are awaiting justice from Court. She further stated that the area Assistant Chief knows the accused as a law-abiding citizen and has no problem with her being released on bond
10. From probation officers report, if the accused is released, she will go back to her home in Transmara; that she will go back to her maternal home as she and her husband are now estranged; and her family are willing to take her back with the 4 children. She concluded that the accused is suitable for favorable bond terms.

11. From the Probation Officer's report, the accused's place of abode are known. She interviewed her family and area Assistant Chief who know her family. A neighbor is also willing to offer security in Court and ensure that she attends court when required.

12. In my view, contrary to the investigating officer's report, the accused is not a flight risk, after the offence she was found at her home in Transmara; report by Probation Officer is that, she is now estranged from her husband and if released she will not go to her matrimonial home in Nakuru. It is unlikely that releasing her will endanger her life as she will stay far from the victim's relatives. She also has potential surety who is willing to ensure her attendance in Court. My view is that as at now the accused is presumed innocent until proven guilty and the interest of the Court is to have accused attend court as required and also guard against endangering her life while out of bond. I have also taken into consideration the fact that the accused has children of tender age and the children stand to benefit from her motherly care while she is undergoing trial.

13. From the foregoing, I find that the prosecution have failed to demonstrate compelling reasons to deny accused bond.

14. FINAL ORDERS

1. Accused's application for bond is allowed.
2. Accused may be released on bond of kshs.500,000 with one surety of a similar amount.

Ruling dated, signed and delivered via zoom at Nakuru this 18th day of June, 2020

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RACHEL NGETICH

JUDGE

In the presence of:

Schola - Court Assistant

Mr. Mongeri Counsel for Appellant

Rita for State