



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KERUGOYA**

**MURDER CASE NO. 1 OF 2019**

**REPUBLIC.....RESPONDENT**

**– VS –**

**GRACE MUTHONI NDAMBIRI..1<sup>ST</sup> ACCUSED**

**RMN ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. By a Notice of Motion dated the 19/10/2020, the 2<sup>nd</sup> accused who is charged with the offence of murder, with the 1<sup>st</sup> accused, seeks variation of bail terms given by the court on the 6/11/2019. The bail terms were that each accused person be released upon signing a bond of Kshs 500,000/- plus one surety of similar amount.

2. The 1<sup>st</sup> accused complied with the bond terms, and was released. The Applicant/Second accused is a minor. At time of the alleged commission of the offence, he was 15 years old. He is now 17 years old. The 1<sup>st</sup> accused is his mother. He has been in remand since the 25/1/2019 when he was charged. He was a Form Two Secondary School student.

3. I have considered the probation report on the accused. It is dated 5/9/2019. There is no doubt that the court (Gitari J) considered the said report when it gave the bail/bond terms on the 6/11/2019.

4. I have noted that the Community and the family of the victim do not regard the accused minor as a security or flight risk, but leaves the matter of bail to the court's discretion. Though the accused's family is willing to stand surety for him, it is unable to meet the terms of bond set by the court on the 6/11/2019. It is noted that the Co-accused, the 1<sup>st</sup> accused and mother of the applicant was able to secure her release on bail.

5. The prosecution is not opposed to variation of bail/bond terms, and leaves the court to exercise its discretion in that regard.

6. UPON consideration of the circumstances, and the fact that the minor has been in custody since his arrest in January 2019, I am persuaded to vary the bail terms as follows:-

1. The 2<sup>nd</sup> accused shall sign a free bond, with two sureties.
2. He shall undertake to attend court whenever required.
3. He shall not interfere with witnesses.
4. He shall not leave the court's jurisdiction during the pendency of the case i.e Kirinyaga County.

Orders accordingly.

**Dated, Signed and Delivered at Kerugoya this 12<sup>th</sup> November, 2020.**

**J. N. MULWA**

**JUDGE**