

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO. 16 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

ROBERT KIRUI.....ACCUSED

RULING

1. The accused Robert Kirui is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code CAP 63 laws of Kenya. The particulars of the offence are that on 9th day of July 2020 at Goitab Silibwet in Chepalungu Sub-county within Bomet County murdered Mercy Mutai.
2. The accused took plea before me on 3/11/2020 and denied the charge. His counsel Mr. Mugumya promptly made an application for the accused to be released on reasonable bond terms. On his part Mr. Mureithi learned Principal Prosecution Counsel asked the court to direct that a pre-bail report be filed. The court acceded to the request and directed that the report be filed within 14 days.
3. When the matter came up for hearing on 2/12/2020, Mr. Mugumya prosecuted the bail application. He submitted that the pre-bail report was favourable to the accused and that there were no compelling reasons to deny the accused bail. He further submitted that the Accused was a family man and the breadwinner of his family. On his part Mr. Mureithi left the matter to the discretion of the court.
4. I have considered the application, the respective submissions of the parties and the pre-bail report. Article 49 (1)(h) of the Constitution grants an arrested or accused person the right to be released on bond or bail pending charge or trial, unless there are compelling reasons. It is the duty of the state to bring any compelling reasons to the attention of the court. See **R. Vs Danson Mgunya & Anor, 2016 eKLR.**
5. The pre-bail report states that the accused and the deceased were related by marriage and that they were also lovers. It states that they had been together prior to the body of the deceased being recovered by the road side. The report however states that notwithstanding the circumstances of her death, the families of both the deceased and the accused were supportive of his release on bond. According to the Probation Officer, the relatives who were interviewed stated that there were no antecedents of violence between the two.
6. As stated above, the prosecution has provided no reason at all for the accused to be denied bail. I am persuaded to grant the Accused bail pending his trial. He is released on a cash bail of five hundred thousand shillings(Kshs.500,000/=). Upon release, he shall ensure that he attends his trial and does not impede the trial in any way.
7. Orders accordingly.

Ruling delivered, dated and signed this 16th day of December, 2020.

.....

R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Defence Counsel Mr. Mugumya, Mr. Mureithi for the DPP, and Kiprotich (Court Assistant).