

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

HIGH COURT CRIMINAL CASE NO. 37 OF 2018

REPUBLIC.....PROSECUTION

VERSUS

JOYLAS KIPYEGON KEMBOI.....ACCUSED

RULING

1. The accused stand charged with murder contrary to section 203 as read with section 204 of the Penal Code.
2. He has pleaded not guilty and applied through defence counsel for bail pending trial. The prosecution does not oppose the grant of bail.
3. Under Article 49 (1) (h) of the Constitution of Kenya 2010, every arrested person is entitled to be released on bail/bond unless there are compelling reasons for denial of bond. The State has the primary duty of demonstrating to court the compelling reasons for denial of bail. They have no such compelling reasons in the present case.
4. This court has been provided with a pre bail report from the Probation Officer Kericho who has recorded that there still exists animosity between the two families, and that as such the accused's life might be at risk if released on bail.
5. In my view protection of the life of the accused person is a compelling reason to deny him bail for his own good, because life once lost, cannot be revived.
6. In those circumstances, I decline to grant bail to the accused at the moment. The request for bail can be considered once key witnesses have testified in court, or the situation on the ground has changed.
7. The request for bail is thus declined at the present moment.

Dated, delivered and signed this 30th day of April 2019.

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George Dulu

JUDGE