



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 16 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

PCM.....ACCUSED

RULING

1. The accused prays for *bail* pending trial. A *pre-bail report* was filed on 12th February 2019 recommending that the accused be granted bond.
2. The application is *not* contested by the Republic.
3. The accused is deemed *innocent*. Under **Article 49 (1) (h)** of the **Constitution**, he is entitled to bail pending trial *unless* there are *compelling* circumstances.
4. The overarching objective of bail is to ensure the accused *attends* his trial. ***Muraguri v Republic*** [1989] KLR 181.
5. Other relevant considerations 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.
6. The accused is charged for the murder of *Milka Muthoni Wanjiru* on 28th March 2017 at *Kamacharia Sub-Location, Murang'a County*.
7. I have taken into account that the accused has just attained the age of majority. He was a minor when he was first presented to court on 18th April 2017. The court (*Waweru J*) directed that the trial be *fast-tracked*. Two witnesses have already testified.
8. Although the *pre-bail report* is favourable, it *down plays* the concerns of the victim's family. The ***Victims Protection Act 2014*** requires the views of victim's family to be taken into account at this stage. The family is opposed to the release of the accused. There is understandable bitterness and angst for loss of their young relative.
9. I have taken into account the *evidence* adduced so far. The deceased was a classmate of the accused in secondary school. They are *neighbours* in Gikindu village. Material witnesses live in the *same* village with the accused. Considering the *circumstances* surrounding the homicide, I find that there is a real likelihood of *interference* with witnesses. That is a *compelling* reason for denial of bail.
10. From the list of witnesses disclosed in the *Information*, there are about *three* remaining witnesses; and, the matter is slated for hearing on 18th June 2019. The interests of justice dictate that the trial be fast-tracked as earlier ordered.
11. The application for bail is *refused*.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 24th day of June 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Ms. R. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.