



REPUBLIC OF KENYA

HIGH COURT AT NAIROBI

CRIMINAL CASE NO. 21 OF 2019

LESITT, J

REPUBLICPROSECUTOR

V E R S U S

JOHNSON MUTHUI WANJIRU..... ACCUSED

RULING ON BAIL

1. The accused person is facing a charge of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. In his application dated 27th of June 2019, he seeks to be released on bail pending trial under **Article 49(1) (h)** of the **Constitution**.

2. Mr. Gichuhi, Learned Prosecution Counsel did not oppose the application for bail. Counsel however asked that the accused person be required by the court to make an undertaking.

3. Mr. Gichuki for the accused urged that the accused was self-employed before his arrest and that therefore he has skills with which he can sustain himself if granted bail. He urged that the accused was asking to be released on lenient bond terms.

4. Counsel for the accused submitted that the accused has indicated that he will relocate to either Githurai or his ancestral home in Nyeri County. Counsel urged that the accused had promised that he will not interfere with the witnesses.

5. The accused has a right to be released on bail pending the trial unless there are compelling reasons. None have been alleged. The prosecution have gone a step further and indicated that they are not opposed to the accused being released on bail.

6. The **Constitution under Article 49(1) (h)** makes it clear that bond terms should be reasonable. The bail and bond policy guidelines elaborates what is reasonable should be accessed by the court (or police if it's pre-charging) having regard to various factors.

7. In this case, I have considered the accused personal means as explained by his counsel. I note he is of humble background and humble means. What is reasonable will therefore be gauged pegged on his personal circumstances.

8. In the result I grant the accused bail on the following terms:

a) Accused may be released on cash bail of KShs.200,000/=.

b) In the alternative the accused may be released on a bond of KShs.500,000/= with one surety of like sum.

c) The accused is warned to stand by his undertakings contained in his individual affidavit including:

i) That he will not interfere with any potential witnesses or witnesses in this case.

ii) That the Accused should avail himself for trial as and when required.

9. The accused is warned that breach of any of the terms in **8(c)** above may result in cancellation or other variation of his bond terms including enhancement of terms.

DATED AT NAIROBI THIS 29TH DAY OF JULY, 2019.

LESIT, J

JUDGE