



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 5 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

EDITH NYAGUTHII MBURU.....ACCUSED

RULING

1. The accused prays for *bail* pending trial.
2. The application is *contested* by the Republic.
3. A *pre-bail report* was filed on 17th July 2019. It is *not* favourable. The Probation Officer concludes that if the accused is released, her security will be in jeopardy.
4. Learned counsel for the accused countered that the accused can relocate from the *locus in quo*. The accused would be housed by her sister in Saba Saba or by another relative in Nakuru. Counsel submitted that the accused has four young children; the last born is only two and living with the mother in prison.
5. Learned counsel submitted that bail is a constitutional right; and, that the accused will comply with any conditions set by the court.
6. The accused is deemed *innocent*. Under **Article 49 (1) (h)** of the **Constitution**, she is entitled to bail pending trial *unless* there are *compelling* circumstances.
7. The overarching objective of bail is to ensure the accused *attends* his trial. ***Muraguri v Republic*** [1989] KLR 181.
8. 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.
9. The accused is charged for the murder of *John Munene Maina* on 20th April 2019 at *Makongo village, Ngatho Sub-Location, Gatanga Sub-County, Murang'a County*.
10. The relevant part of the social report states-

“A rumour circulated that the accused had been seen in the area. Members of the community led by boda boda riders staged a match in search of her. It was only discovered later that.....it was a different person.

“Members of the public out of anger pulled down the family house where the accused, the deceased and their children lived”

11. The homicide took place barely *four months* ago. The deceased was her *husband*. There is palpable anger at the *locus in quo* and threats of revenge. The family residence was pulled down by the public.
12. I commiserate with the circumstances of the young children. But I find that the security of the accused cannot be guaranteed at the moment. It may be true that the accused can relocate to Saba Saba or Nakuru. But that will be away from her *known* abode; and, which raises doubts that she will faithfully attend court.

13. Bail is accordingly *denied*.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 25th day of July 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Ms. Muritu for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.