



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NANYUKI
CRIMINAL CASE NO. 2 OF 2018

REPUBLIC.....RESPONDENT

Versus

LUCY WANJAKIBUGU.....1ST ACCUSED
GETRUDE KOKI MAWEU.....2ND ACCUSED
LOYFORDMWIRIGIMBAE.....3RD ACCUSED
GEORGE WACHIRA *alias* WACHIRA BROKER.....4TH ACCUSED
MARY NYAMBURA MAINA *alias* MAMA NYAMBURA...5TH ACCUSED

RULING

1. The five person in this matter who are charged with offence of murder have applied that they be released on bail pending trial. This court benefitted from the probation pre-bail report which will assist to consider each accused person's circumstances separately.

LUCY WANJA KIBUGU 1ST ACCUSED

2. The 1st accused is the area chief of Gakawa Location. The probation pre-bail report reveals that she is highly regarded by the community.

3. The first accused is settled with her family at Gakawa Location. The probation officers comments are that she is respected leader whom many look up to for help. She has helped to maintain peace and order in her are of jurisdiction.

4. She is not regarded as a flight risk, if granted bail.

GETRUDE KOKI MAWEU 2ND ACCUSED

5. 2nd Accused is the Assistant chief of Equator sub-location.

She and her family have resided in Equator sub-location for the last 24 years. She is not regarded as a flight risk by the probation officer.

LOYFORDMWIRIGIMBAE3RD ACCUSED

6. The 3rd accused was said, by his Learned Counsel, Mr. Bwonwonga, to be the sub-area of Equator sub-location.

7. He resides in Equator sub-location with his wife and one child. He is described by the Probation Officer as a respected community leader. The community is positive to his release on bail. He is said not to be a flight risk.

GEORGE WACHIRA alias WACHIRA BROKER 4th ACCUSED

8. The 4th Accused is a leader of 'NyumbaKumi' of Gakawa Location.

9. He has a fixed abode and is the sole bread winner for his children, following the demise of his wife. He is described as not being a flight risk. The community members are willing to receive him if he is released on bail.

MARY NYAMBURA MAINA 5th ACCUSED

10. The 5th Accused resides in Ichuga area where she is permanently settled with her family. She is the sole bread winner for her five children. She is not regarded as a flight risk. The community welcomes her release on bail.

ANALYSIS AND DETERMINATION

11. There is no doubt that the accused, before this court, are well respected leaders of their community. That is borne out by the pre-bail reports, and in the case of the 1st accused the leadership of the church she attends wrote a letter praising her commitment to that church and its activities. She is the leader of the "Justice Peace Reconciliation Committee of that Church.

12. As much as they are respected leaders in their community it is important for this court to remind itself that **Article 27 (1) of the Constitution** provides that all persons are equal before the law and have rights to equal protection and equal benefit of the law.

13. The accused, just like any other person, are entitled, under **Article 49 (1) (h)**, to be released on bond or bail, on reasonable conditions, pending their trial. The only caveat to that right is that the court has the discretion to deny bail, to a person, where there are compelling reasons not to grant bail.

14. Justice John M Mativo in the case: **REPUBLIC - V- DANFORNDKABAGE MWANGI [2016]eKLR** considered what would be the compelling reasons to deny a person bail and stated:

"The "relevant and sufficient" reasons which may permit the accused to be remanded in custody rather than being granted bail (also known as the "grounds for refusing bail") are limited to: Risk that the accused will fail to appear for trial if they are released on bail:

i. Risk that the accused will interfere with the course of justice while on bail (e.g. that he will destroy evidence that could be used against them at their trial or that they could interfere with witnesses who are due to give evidence at their trial):

ii. Risk that the accused will commit further offences while on bail:

iii. The accused would be a risk of harm (from himself/herself or from others) against which they would be inadequately protected if released on bail: or

4. Risk to the perseverance of public order if the accused is released on bail."

15. None of those conditions mentioned in the above case exist in respect to the accused before court. It is for that reason that I find the accused are entitled to be release on bail pending their trial.

16. I therefore make the following order.

(a) **All the accused will be released on their own bond of Ksh. 500,000 and one surety of same amount.**

b) **The accused are all cautioned not in any way interfere with the prosecution of this case.**

Dated and Delivered at Nanyuki this 31st January 2018

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Assistant: Njue/Mariastella

1st Accused: Lucy Wanja Kibugu

2nd Accused: Getrude Koki Maweu

3rd Accused: Loyford Mwirigi Mbae

4th Accused: George Wachira alias Wachira Broker

5th Mary Nyambura Maina Alias Mama Nyambura

For accused.....

For state:

Language

COURT

Ruling delivered in open court

MARY KASANGO

JUDGE