



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL CASE NO.97 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

CHRISTINE KANANA.....ACCUSED

RULING

[1] The accused person is charged with the offence of murder contrary to Section 203 as read with section 204 of the Penal Code CAP 63 of the Laws of Kenya. The accused person has sought to be released on bail pending the hearing and determination of this case.

[2] According to pre bail report filed in court on 5th February 2018, the accused person was depicted in very bad light and was said to be a drunkard and could hardly speak the truth. Her own family members were not ready to stand surety for her and the community was said to be very hostile and was negative to her release on bail. The accused person was accused of murdering her own son.

DETERMINATION

[3] By dint of the Constitution of Kenya, 2010, all offences are bailable. More specifically, Article 49 (1) (h) thereof provides that an arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released. There may not be a scientific measure of what exactly amounts to compelling reasons as that would depend on the circumstances of each case. Except, however, compelling reason should be a reason or reasons which is rousing, strong, interests attention, and brings conviction upon the court that the accused person should be denied bail. Flimsy reasons will not therefore do. Thus, the standard is high for it draws from the constitutional philosophy that any restriction of rights and freedoms of persons must be sufficiently justified given the robust Bill of Rights enshrined in the Constitution. I need not aver-emphasize these matters except to cite the case of **R vs. JOKTAN MAYENDE & 3 OTHERS [2013] eKLR**.

[4] According to the pre bail report, the accused was said to have killed her own son. Her family members were not willing to stand surety for her. Applying the test of the law, I am convinced that there are no compelling reasons not to release the accused on bond. Accordingly the accused person shall be released on cash bail of Kshs. 100,000 or bond of Kshs. 200,000 with one surety of like amount. It is so ordered.

Dated, signed and delivered in open court at Meru this 12th day of February, 2018.

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F. GIKONYO

JUDGE

In the presence of:

Mr. Namiti for State

M/s. Waigwa for accused

Accused – Present

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F. GIKONYO

JUDGE