



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**H.C.CR MURDER NO. 18 OF 2015**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**1. KEN MUTUGI MUCHAGI..... 1<sup>ST</sup> ACCUSED**

**2. ROSE MADRINE NJERI.....2<sup>ND</sup> ACCUSED**

**RULING**

This ruling relates to an application for bail made orally by the 2<sup>nd</sup> accused Rose Madrin Njeri. The court was urged to consider that the report by the probation officer was favourable.

The state through the Prosecution Counsel Mr. Ombiri did not oppose the application. He urged the court to grant bail on such terms that the court may deem necessary.

I have considered the application. I have perused the bail report by the Probation Officer. I note that bail is recommended at courts discretion.

Bail is provided for under Article 49(h) of the Constitution provides:

***“An arrested person has the right –***

***to be released on bond bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released.”***

The prosecution has not cited any compelling reasons to deny the 2<sup>nd</sup> accused bail. The state has informed the Court to consider such terms as may be necessary. Bail is a Constitution right which should not be denied unless there are compelling reasons. However in considering the bail terms, the court notes that the offence facing the 2<sup>nd</sup> accused is very serious and the terms must be such that they will ensure that the accused will turn up for the trial upto its final determination. The accused will be released on a bond of Kshs 5,000,000/- plus two sureties of Kshs 2,000,000/- each.

**Dated at Kerugoya this 1<sup>ST</sup> day of August 2018.**

**L. W. GITARI**

**JUDGE**