



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CRIMINAL CASE NO. 33 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**PETER CHEGE MUCHERU.....ACCUSED**

**RULING**

1. The accused prays for bail pending trial. The *notice of motion* is dated 3<sup>rd</sup> December 2018.
2. The application is contested by the Republic.
3. There is filed a comprehensive *pre-bail report* dated 25<sup>th</sup> October 2018. In a synopsis, the report is *unfavourable*.
4. Learned counsel for the accused challenged the report. He submitted that the accused allegedly ran over the deceased; and, that the accused will in the fullness of time be making an offer for plea agreement. He submitted further that the accused is not a *flight-risk*; and, will abide by the orders of the court.
5. The learned Prosecution Counsel submitted that the safety of the accused is *not* assured; and, that there are compelling reasons for denial of bail.
6. The accused faces the grave charge of *murder*; but he is still deemed *innocent*. Under Article 49 (1) (h) of the Constitution, he is entitled to bail pending trial *unless* there are *compelling* circumstances. See *Muraguri v Republic* [1989] KLR 181, *Republic v Elias Kipkemoi*. Eldoret High Court Criminal Case 42 of 2014 (unreported).
7. The overarching objective of bail is to ensure the accused *attends* his trial. *Muraguri v Republic* [1989] KLR 181. Relevant matters to be considered by the court 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.
8. The accused is charged for the unlawful killing of *Lydia Njoki Nguji* on 4<sup>th</sup> August 2018 at *Kabati Kaguduini, Kandara Sub-County*.
9. The social report concludes as follows-

*“The circumstances of his arrest were characterized by aggression...it took the intervention of the police to rescue and safeguard him though part of his family opined that his security would not be at stake...there is a strong indication that he may suffer harm from members of the community if released on bond. The victim’s family on the other hand was left devastated and her children orphaned” [Ephasis added]*
10. There is palpable anger at the victim’s home. The ***Victims Protection Act 2014*** requires the views of victim’s family to be taken into account at this stage.
11. I empathize with the accused. But I have reached the conclusion that his *safety* is *not* guaranteed at the *locus in quo*. That to me is a *compelling* reason *not* to release the accused on bail.
12. The application for bail is *refused*.

It is so ordered.

**DATED, SIGNED and DELIVERED** at MURANG'A this 20<sup>th</sup> day of December 2018.

**KANYI KIMONDO**

**JUDGE**

***Ruling read in open court in the presence of-***

Accused.

Mr. Njoroge for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.