



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI
CRIMINAL CASE NO. 6 OF 2016

REPUBLIC STATE

Versus

SIMON MUIGAI MWANGI ACCUSED

RULING

1. The accused **SIMON MUIGAI MWANGI** is charged with the *offence of murder contrary to section 203 as read with 204 of the penal code cap 63*. He pleaded not guilty to the offence and is now awaiting his trial. He has applied for bail pending trial.
2. In making the application on behalf of the accused, learned counsel Mr. Wanjohi stated that the accused if released on bail was willing to abide by any order made by the court.
3. The prosecution was represented by the Principal Prosecuting Counsel Mr. Tanui. He submitted that the investigating officer had filed an affidavit in response to the application for bail. He however added that because the pre bail probation report was in favour of bail being granted, he did not oppose the application for bail. The investigating officer in his affidavit did oppose the bail application on the grounds that the accused was likely to abscond since he was facing a serious charge. That he had no permanent residence and that he was likely to interfere with the witnesses if released.
4. The court requested the probation officer to prepare a pre bail report to assist the court to determine the application. The report represented by the probation Officer showed that the accused was 38 years old. He has no children. He was cohabiting for one year with the deceased in respect of this case. He is said to have consumed alcohol for many years. In fact the psychiatrist report in the court file indicates that the accused has been a known alcoholic for the last 22 years.
5. The pre-bail probation report is favourable to the accused being released on bail on the basis that he has his family's support.
6. I have considered the application. I am however concerned that the investigating officer stated that he was fearful that the accused if released on bail would interfere with the witnesses in this case. The learned counsel for the accused did not respond to that concern at all. If indeed there is a likely hood of the accused interfering with the witnesses in this case then the justice of this case will not be met. It is because of that I find that there are compelling reasons to decline to grant bail as sought by the accused. I do however urge the director of public prosecution to ensure that this case is heard without undue delay.

DATED THIS 31ST DAY OF MAY 2016.

MARY KASANGO

JUDGE

CORAM:

Before Justice Mary Kasango

Court Assistant – Njue

Appellant: Simon Muigai Mwangi

For the accused:

For the State:

COURT

Ruling delivered in open court.

MARY KASANGO

JUDGE