



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**CRIMINAL CASE NO.27 OF 2015**

**LESANGANI LENAREU.....ACCUSED**

**VS**

**REPUBLIC.....RESPONDENT**

**RULING**

The accused person, **LESANGAN LENAREU** 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.**

By a Notice of Motion application brought pursuant to Article 49 (1) (h) of the Constitution of Kenya, **the accused person has sought to be released on bail pending the hearing and determination of this case.**

The gist of the application is that the accused person has been languishing in custody since 10<sup>th</sup> March 2015 and that he is an old man aged 76 years and his health has deteriorated while in remand; that he is ready to abide by all the conditions that the court will impose.

The application was opposed by Mr. Mulochi, counsel for the State. He relied on an affidavit sworn by PC Josphat Kinyanjui, the investigations officer, who deposed inter alia that the accused person had no fixed abode and therefore a flight risk; key prosecution witnesses are relatives of the accused and the deceased and the accused person will interfere with them if released on bail.

Before the court considered this application, it asked for pre-bail report in respect of the accused person. According to the pre-bail report filed in court on 24<sup>th</sup> June, 2016, neighbours and the area administration were not opposed to the release of the accused person on bail; that he has been a law abiding citizen.

In conclusion the probation officer was of the view that even if there was no compelling reason to deny the accused person bond, the accused person did not have a fixed abode as he came from a nomadic community and the distance from his home area; that the court was long and as such, the accused may have difficulties attending court.

I have considered this application, submissions by counsel and the pre bail report. Chesoni J (as he then was) in the case of **Ng'ang'a vs. Republic 1985 KLR 451** enunciated the principles to be considered by the court in deciding whether to released an accused person on bail/bond as inter alia as follows:

- 1. Whether the accused will turn up for his trial;**
- 2. The seriousness of the charge;**

**3. Character and antecedents of the accused person;**

**4. Whether the security of the accused will be guaranteed if released;**

**5. Whether accused will interfere with witnesses;**

The primary consideration in an application for bond is whether accused will turn up for his trial. In this case the accused is an old man who is about 70 years.

I have considered the application and the affidavits filed herein along with the probation officer's report.

On the allegation that accused might interfere with witnesses, no basis was laid for the said allegation and there is no evidence to support the said allegation.

The probation officer was able to meet the local administrators who knew the accused and also his family. It means that he has a fixed abode where he can be found.

Accused is said to be of good conduct and so far the prosecution has not alluded to any reason as to why accused should be denied bond. In the end, I allow the application. Accused may be released on bond of Kshs 300,000/= plus one surety of like sum.

**DATED, SIGNED AND DELIVERED THIS 27<sup>th</sup> DAY OF JUNE, 2016.**

**R.P.V. WENDOH**

**JUDGE**

**Before:**

Mr Mulochi for state

Mr Omari for accused

Accused present

C.A Penina