



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO 19 OF 2015**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JAMES KIMANI WAIRIMU.....ACCUSED**

**RULING**

1. The Accused herein, **James Kimani Wairimu**, is charged with *murder* contrary to **section 203 as read with section 204** of the *Penal Code*. It is alleged in the information dated 29/04/2015 that on 03/04/2013 at about 23.30 hours at Kabati Market within Murang'a County he murdered one Beatrice Mukami Gitahi. His plea was taken on 20/01/2015. He pleaded not guilty. His trial is scheduled to commence on 11/10/2016.

2. In the meantime the Accused has applied by **notice of motion dated 24/11/2015** to be admitted to bail pending his trial. The Republic has opposed the application upon the ground that the Accused is a real flight risk and may not turn up for his trial should he be released.

3. I have considered the submissions of the learned counsels appearing. Bail pending trial is now a constitutional right for all criminal offences that will be denied only for compelling reason. Any condition that the court might impose for such bail, again by constitutional edict, must be reasonable. See **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.

4. I have perused the witness statements and other documents supplied by the prosecution to the Accused and to the court. It appears that the Deceased was the Accused's common law wife living with him at the time of her death. He was not arrested until two (2) years after the alleged offence. The police say that he went underground after committing the offence and was seen not far from home in another place after 2 years of being at large.

5. I am satisfied from the material now before the court that the Accused is indeed a flight risk, and the possibility is real that if released on bail he may not turn up for his trial. This is a compelling reason to deny him bail.

6. I will refuse the Accused's application. It is dismissed. He shall remain in remand custody until completion of his trial. It is so ordered.

**DATED, SIGNED AT MURANG'A THIS 16<sup>TH</sup> DAY OF JUNE 2016**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 17<sup>TH</sup> DAY OF JUNE 2016**