



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA

MURDER CASE NO. 13 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

FREDRICK MURIUKI GIKUNJU.....APPELLANT

RULING

1. **FREDRICK MURIUKI GIKUNJU** is accused of causing the death of **Phyllis Nyaguthii Karimi**, contrary to **Section 203** as read with **Section 204** of the **Penal Code**. He denied the offence and the case is pending for trial. He has now moved this Court through a Notice of Motion dated 21st July, 2016 for bond/bail pending trial on the ground that he is entitled to his constitutional rights under **Article 49 (1)** and **50** of the Constitution which he has invoked in this application.

2. The other grounds for the application are as follows:-

(a) That he is willing to abide by any condition imposed by this Hon. Court and to attend court whenever he is required to do so.

(b) That there are no compelling reasons to deny him bond.

(c) That he has a fixed abode and not likely to abscond if released on bond.

The application is supported by the affidavit by the applicant sworn on 21st July, 2016.

3. At the hearing of this application, the State through Mr. Omayo, learned counsel from the Director of Public Prosecutions informed this court that he was not opposed to the application owing to the probation report and the instructions he had received from the investigating officer in this case.

4. A right to bail/bond is a constitutional right to an accused person enshrined in the **Constitution of Kenya 2010**. Under the provisions of **Article 49 (i) (h)** that right can only be denied if there are compelling reasons. This is based on the right to a presumption of innocence that an accused person also enjoys under **Article 50** of the **Constitution**.

5. I have looked at the probation report and the response by the State concerning this application. No compelling reasons have been advanced to deny bond/bail to the applicant herein and I find none. Consequently I allow the application dated 21st July, 2016. The accused herein may be released on a bond of Kshs. 1 Million (One Million Kenya Shillings) with one surety of similar amount. If released, the accused is directed to completely stay away from the witnesses in this case and not to indirectly or directly try to contact them in any way. He shall also attend court whenever required to do so and in this

respect the accused is required to attend court on 6th December, 2016 for mention for purposes of taking a date in this case for trial.

Dated and delivered at Kerugoya this 28th day of July, 2016.

R. K. LIMO

JUDGE

28.7.2016

Before Hon. Justice R. Limo J.,

State Counsel Sitati

Court Assistant Willy Mwangi

Accused present

Interpretation English – Kikuyu

Macharia holding brief for Ombachi for applicant.

Sitati for State present

COURT: Ruling signed, dated and delivered in the open court in the presence of Macharia for the applicant and sitati for the State.

R. K. LIMO

JUDGE

28.7.2016