



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
HIGH COURT CRIMINAL CASE NO 112 OF 2014

REPUBLICPROSECUTOR

VERSUS

G O OACCUSED

RULING

1. The accused G O O is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code the particulars of which were that on the 6th day of November, 2014 at *[particulars withheld]* in Majengo, Kamkunji Area within Nairobi Area murdered J O H.
2. He pleaded not guilty to the said charges and by a Notice of Motion dated 1/2/2016 applied to be released on bond pending trial and determination of the case on the grounds that he is a young man aged 22 years of age and had been in custody for a period of over one year since his arrest on 6th November, 2014.
3. The application was supported by an annexed affidavit sworn by the applicant in which it was deponed that the alleged offence herein arose out of a scuffle or fight involving a group of students including the deceased and himself after they had completed their exams in which he too was stabbed on his head as was the deceased who later on died at Kenyatta National Hospital. It was further deponed that the applicant is an orphan who was being supported by his relatives.
4. When the application came up for hearing before me, Mr. Magoma for the prosecution indicated that they were not opposed to the applicant being released on bond.
5. In compliance with the bond and bail policy guidelines and the provisions of Victim Protection Act, the court ordered for a pre-bail report which has been filed and in which it was indicated that the accused is a first born in a family of five siblings who was staying with his aunt one P A in Kariobangi having been transferred from *[particulars withheld]* to *[particulars withheld]* in Pumwani where he sat for his KCSE exams in 2014.
6. It was indicated that the Aunt of the accused whom he had been living with pleaded for leniency for the accused though they were non committal on the plans they had put in place to ensure that the accused attend court when needed. On the other hand the family of the victim had reservation on the accused person being released on bond.
7. Bond is now a Constitutional Right of every accused person which can only be limited where there are

compelling reasons to be advanced by the State. The main purpose of bond is to secure the attendance of the accused person at his trial if and when called upon.

8. In this matter the State has not provided any compelling reason to enable the court deny the accused person his constitutional right to bond pending trial. I have also looked at the probation report which raises no compelling reason to enable the court deny the accused person his constitutional right to bail.

9. The court has taken into account the fact that the accused person is a fairly young man who had just completed his secondary education at the time of the alleged commission of the offence. From the information availed to the court it will not be in the interest of justice if the accused is held in custody during his trial.

10. Taking into account the fact that the action of the accused lead to loss of life hefrom which if he is found guilty, the same shall be liable to death sentence and balancing this against the fact that the accused is the first born in a family of five orphaned children who need his guidance and care and the fact that the accused was under the care and goodwill of his aunt at the time of the alleged offence I will allow the application herein and order the accused to be released on bond pending trial on the following terms and conditions:-

a) Bond of Kshs.200,000/- with one surety of similar amount.

b)The Aunt of the accused one P A to further execute a personal bond to secure the attendance of the accused person at his trial.

c) During the period of the trial the accused person shall attend mention before the Deputy Registrar of this court once after every ninety (90) days at a date to be set by the said Deputy Registrar while approving the bail terms.

Dated, signed and delivered at Nairobi this 20th day of September, 2016.

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J. WAKIAGA

JUDGE

In the presence of

Mr. Magoma for the State

Mr. Ogada For the accused

Accused present

Tabitha court clerk