



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 25 OF 2016

S K ACCUSED

versus

REPUBLIC PROSECUTOR

RULING

1. The subject in this matter who is 16 years old is charged with the **offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code**. He pleaded not guilty to the offence. He is awaiting his trial. His learned counsel applied for his release on bail pending trial. The court requested the probation office to prepare a pre-bail report to assist the court in the consideration of the application.

2. That report is positive towards the application for bail. The subject who as stated before is a minor is also an orphan. He has had to rely on getting casual jobs to sustain him and as a consequence has not obtained education. Although the victim's family were not favourable to his release on bail they however informed the probation officer that the subject did not pose any threat to them. The subject resides with some members of his family in [Particulars withheld] area. His brother in law although having meagre earnings has undertaken to stand surety for the subject.

3. The learned Senior Principal Prosecuting Counsel in consideration of the probation officer's report did not oppose the application. He however requested the court to give reasonable bail conditions.

4. The subject just like any other person arrested has a constitutional right to be granted bail pending trial. This is more so when the trial is likely to take a considerable time. The only condition placed by the constitution which would lead to the denial of bail is where there are compelling reasons not to grant bail. In this case there are no such compelling reasons. The subject was described by the probation officer as a person of good character prior to being charged before court. When this case has previously come before court for hearing the hearing has been derailed by the lack of government chemist report on the exhibits in this case. The information given to the court by the government chemist is that the machine used by them in the Nairobi area has broken down. There is therefore every likelihood that this trial may delay. With that in mind this court will grant the application as sought.

5. This court orders that the subject **S K** be released from custody on bail pending trial on provision of **one surety of Kshs. 100,000** and on condition that the said subject will not relocate from his residence in [Particulars withheld] area without the approval of this court.

DATED AND DELIVERED THIS 23rd DAY OF NOVEMBER 2016.

MARY KASANGO

JUDGE

CORAM:

Before Justice Mary Kasango

Court Assistant – Wanyoike

Accused: Stephen Kirimi

For the accused:

For the State:

COURT

Ruling delivered in open court.

MARY KASANGO

JUDGE