

REPUBLIC OF KENYA

IN HIGH COURT OF KENYA AT MERU

HCR 1 OF 2015

REPUBLIC PROSECUTOR

VRS

PISILIANA CIAMBUBA GITARI ACCUSED

RULING

Pisiliana Ciambuba Gitari is facing a charge of murder contrary to Section 203 as read with Section 204 of the Penal Code. By a Notice of Motion dated 17/2/2015, she prays to be released on bond/bail pending the hearing and determination of the case. The grounds upon which the application is premised are that she has been in custody since her arrest on 19/12/2014; that she is aged 65 years old and she has been advised that she has a constitutional right to be released on bond on reasonable terms; that she suffers from blood pressure; she is willing to attend court as will be required of her by the court and that this case is likely to take long to hear which will prejudice her rights to an expeditious hearing.

The application was opposed through an affidavit sworn by CPL Silas Karinga, the Investigating Officer in the matter who deposed that the accused will interfere with witnesses who are her relatives; that there are high chances that she will abscond because of the severity of the likely sentence and that the murder having been committed recently, there is likelihood of a revenge attack on the accused.

The court called for a prebail report which it has considered alongside the affidavits filed herein. Although the right to bond is guaranteed under Article 49 (1) (h) of the constitution, the said right is not absolute. The court will consider whether there are compelling reason to deny the bond.

Before granting bond, the court has to consider, first, whether the accused will show up for her trial; whether she will interfere with witnesses; whether her security is guaranteed and the antecedents and previous character of the accused.

In the instant case, the victim of the murder is the nephew of the accused as disclosed from the prebail report. Accused is said to have been living at her parent's home having separated from her husband many years ago and the dispute arose out of land. According to the report, the emotions on the ground are still high and her life is likely to be in danger if released. This report was obtained from the local administration and interview of the relatives. Besides, she will have nowhere to go even if released at this stage. For that reason alone, I find that there are compelling reasons to deny accused bond at this stage. May be the application mayberevisited later after passage of some time when emotions have subsided and the relatives have come to terms with the death.

Application is therefore declined.

DATED, SIGNED AND DELIVERED THIS 26TH DAY OF JUNE, 2015

R.P.V. WENDOH

JUDGE

PRESENT

Mr. Mungai for State

Mr. Wamache Holding Brief for Mr. Omari

Accused, Present

Faith/Ibrahim, Court Assistant