

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL CASE NO. 27 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

BONIFACE KABUCHO KURIA.....ACCUSED

RULING

Boniface Kabucho Kuria faces a murder charge contrary to section 203 read with section 204 of the Penal Code. The particulars of this charge read that on the night of 22nd December 2014 at New Donholm Estate within Nairobi County he murdered Willy Mwongeri Mbugua.

The accused has approached this court seeking to be admitted to bail pending the hearing and determination of this case. To that end the accused has filed a Notice of Motion dated 15th April 2015 supported by his affidavit sworn on the same date. In that application the accused is saying that he has been in custody since 28th January 2015 when he was arrested; that he was a businessman and part-time student undertaking CPA KASNEB courses in Accounting before his arrest; that he has never been arrested or convicted of a criminal offence before; that he is married and expecting a child later this year; that he lives with his wife in Githurai; that he is the sole bread winner and that he will not interfere with witnesses. He also states that he is ready to abide by the terms and conditions of bail set by this court. He said he presented himself to the police when he learned that they were looking for him.

The application has been opposed by the prosecution. While relying on the Replying affidavit of one CPL Kennedy Cheramboss, the prosecution counsel submitted that the accused is likely to interfere with investigations and witnesses if released on bond; that he may abscond given the seriousness of this case and the severity of the sentence.

I have considered both the application and supporting grounds as well as the opposition by the prosecution. Murder is now bailable. In considering whether to grant or to decline to grant bail to an accused person the court lays emphasis on the paramount consideration whether the accused will term up in court when required to do so until the case is heard and fully determined. The court in granting bail gives terms and conditions of bail and also determines the suitability of the surety. At the stage where this matter is now, this court wants to believe that the police are through with investigations. That is why they formed the opinion to charge the accused before this court. I do not believe that the accused is likely to thwart police efforts to arrest any other suspect still at large.

I do not find any compelling reason to make me deny the accused bail. I will therefore allow this application and admit accused to bail. He shall **execute a bond of Kenya Shillings One Million (Kshs 1,000,000) with one surety of similar amount.** In the alternative he shall **pay cash bail of Kenya Shillings Five Hundred Thousand (Kshs 500,000).** He is cautioned by this court to desist from any acts that may interfere with witnesses or otherwise interfere with the successful hearing and determination of this case. I make orders accordingly.

Dated, signed and delivered this 22nd day of June 2015.

S.N. MUTUKU

JUDGE