

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO 33 OF 2012

(FORMERLY NYERI HC CR CASE NO 23 OF 2011)

REPUBLIC.....PROSECUTOR

VERSUS

MARGARET WAMBUI NJERI.....ACCUSED

R U L I N G

1. The Accused **Margaret Wambui Njeri** is charged with *murder* contrary to **section 203 as read with section 204** of the *Penal Code*. It is alleged in the information dated 16/08/2011 that in the night of 30th July 2011 at Kambirwa Village in Gikindu Location of Murang'a District within Murang'a County she murdered one **James Njogu Wambui**.
2. The Accused's plea was taken on 10/11/2011 at Nyeri. She pleaded not guilty. The case was fixed for mention a number of times to take a hearing date, and was finally transferred to High Court, Murang'a by an order entered on 20/11/2012. There was further delay caused by other factors, including plea-bargaining. Hearing of the case is now scheduled to start on 23rd November 2015.
3. The Accused has now applied by notice of motion dated 21/07/2015 to be released on bail pending her trial. Learned Prosecution Counsel has stated that the Republic has no objection to the Accused person being admitted to bail.
4. Bail pending trial is now a constitutional right that will be denied only for compelling reason, and any conditions for such bail must be reasonable. See **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.
5. I have read the witness statements and other documents provided to the Accused person and to the court by the prosecution, and I have noted the circumstances of the alleged offence. The Deceased in this case was the youngest child of the Accused who is apparently a single mother. It will be the prosecution case that the Accused poisoned herself and her three children; she and the two older children survived but the youngest child died. The two children who survived will be witnesses for the prosecution.
6. This court has not been informed where those two children are now living, and whether, if released on bail, the Accused will be in contact with them. The court has also not been informed whether the Accused has received any treatment for any depression that may have led her to poison herself and her children, and whether, if released on bail, she may not again attempt to do harm to herself and to her two remaining children.
7. In raising all these issues I of course remind myself that the Accused remains innocent until and unless proven guilty beyond reasonable doubt; and it will be the burden of the prosecution to so prove her guilt. I am however persuaded that her own safety and the safety of her surviving children strongly militate against her release on bail pending trial. There is thus a compelling reason to deny the Accused bail. She shall remain in custody pending her trial. It is so ordered.

DATED AND SIGNED AT MURANG'A THIS 23RD DAY OF JULY 2015

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 31ST JULY DAY OF JULY 2015