



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL CASE NO. 39 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

EDWIN OMKHOLO ANYEMBE..... ACCUSED

R U L I N G

1. The application before me seeks orders that the accused be released on bail pending trial. The accused **Edwin Omukholo Anyembe** was charged with the offence of murder on 16th April 2015. The particulars of the offence are that on 31st January 2015 jointly with others not before court at Riverside Estate in Ruaraka murdered Irene **Akinyi Nyariaro**. The accused took plea on 21st April 2015 and denied the charge and was remanded in custody. He filed the present application on 21st July, 2015.

2. The application is based on the following grounds:-

“(i) THAT, the accused person was charged with murder and pleaded not guilty to the said offence as such, the accused be regarded innocent of the offence until proved guilty.

(ii) THAT, the accused person has been in custody and remains so since the 2nd day of April 2015 when he was arrested todate, a period of four months causing him great stress and anguish.

(iii) THAT, the accused has developed stress and high blood pressure that have become acute and very serious from June 2015, and proper medication, treatment and diet are a challenge in remand in prison.

(iv) THAT the said offence for which the accused faces is bailable under the Constitution of Kenya and it is just and reasonable that the accused person be admitted to bail”.

The application is supported by the sworn affidavit of the applicant in which he deposes *inter alia* that the offence with which he is charged is bailable under the Constitution; that he has a fixed abode and family ties in Kenya; that he has not been involved in any criminal activity; and that he is not a danger to the public.

3. The respondent has not failed a replying affidavit to the application. At the hearing on 17th November 2015 **Mr. Okeyo** for the respondent told the court that the State was not opposed to the accused being released on bail as there were no compelling reasons for him to be denied bail. Counsel only prayed that the court gives conditional terms.

4. In urging the application, **Mrs Nyamongo** for the applicant reiterated the grounds set out in the notice of motion filed on 21st July 2015 and the averments in the supporting affidavit. She underscored the accused's constitutional entitlement to bail and urged the court to grant just, fair and reasonable terms. She added that the accused maintains his non guilty plea and that the only evidence against him was that he was found with a phone said to belong to the deceased.

5. I have considered the application. The Constitution entitles the accused to bail where there are no compelling reasons. In the instant case the State has categorically stated that there were no compelling reasons to warrant denial of bail. I have satisfied myself on the basis of the material before me that indeed there are no compelling reasons to deny the applicant bail.

6. In the premises, I allow the application conditions that the applicant shall:-

(i) Pay cash bail of Kshs.500,000/- with two sureties of similar amount;

(ii) Not interfere with prosecution witnesses in any manner whatsoever.

(iii) Attend court for mention of her case before the Deputy Registrar monthly until the commencement of her trial.

Orders accordingly.

Ruling, delivered and dated at Nairobi this 23rd day of November, 2015

R.LAGAT-KORIR

JUDGE

In the presence of:

-: Court clerk
-: Accused/Applicant
-: For State
-: For Accused/Applicant