

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.13 OF 2013

REPUBLIC.....RESPONDENT

VERSUS

AGNES MUENI MUTUKU.....APPLICANT

RULING

1. The accused Agnes Mueni Mutuku is facing trial for the murder of Rhoda Kavindu Kasoa. According to the information filed in court by the Deputy Public Prosecutor, she is alleged to have committed the offence on 20th January 2013 at Huruma Ngei Two Estate within Nairobi County. The accused took plea on 31st January 2013 and she denied the charge.
2. Her application dated 14th March 2013 was urged before me on 9th May 2013. Parties however asked the court to hold the Ruling in abeyance pending the outcome of their plea bargain. The prosecuting counsel however subsequently informed the court that the state would proceed with the initial charge of murder against the accused prompting the consideration of the bail application and this Ruling.
3. The application is opposed by the State on two grounds. The first one is that the accused was likely to be convicted owing to the strength of the evidence. **Ag. I.P. Vincent Njoroge** has sworn an affidavit stating that the accused scalded the deceased with hot water and that the injuries inflicted led to the deceased's death. In her oral submissions before court, **Ms. Gichuhi** the prosecution counsel submitted that the applicant was likely to abscond trial given the strength of the evidence which was likely to lead to a conviction.
4. The second reason advanced by the prosecution is that the applicant was likely to interfere with prosecution witnesses. **Ag. IP Vincent Njoroge** depones at paragraph 6 of the replying affidavit that the accused was a long time family friend of both the deceased and the deceased's husband. In her oral submissions, **Ms Gichuhi** argued that the release of the applicant would give her an opportunity to interfere with the witnesses whom she stated are well known to her.
5. In his submissions, **Mr. Kimani** for the defence discounted the argument that the close relationship between the applicant and some witnesses would lead to interference. He urged the court not to entertain arguments relating to the strength of the evidence as it was yet to be tested in cross-examination.
6. Having considered the rival affidavits and submissions in this application, and having carefully considered the provisions of **Article 49 (i) of the Constitution**, and the circumstances of this case, I am persuaded not to grant the applicant bail. I consider that the interests of justice in this case will be served by an expeditious trial rather than allowing the application. I order that the State prosecutes this matter on the scheduled hearing dates namely 16th and 17th May 2014.

Orders accordingly.

Ruling delivered, dated and signed at Nairobi this 25th day of February, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: Applicant

.....: For the applicant

.....: For the State/respondent