

REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
CRIMINAL CASE NO. 25 OF 2012

REPUBLICPROSECUTOR

VERSUS

F C CACCUSED

RULING

1. The accused faces two separate cases. In the present case he is charged with the Murder of LT I, who according to the prebail report was his wife. He is also charged in criminal case no. 768 of 2012 in the Lower Court with the attempted murder of his son, P F.
2. The accused was released on bond in the latter case and also seeks to be similarly released in the present one. The State while not outrightly objecting has asked that the accused be warned not to interfere with witnesses, the majority of whom are his relatives who, according to the prebail report have been visiting him in prison. Of major concern is the minor witness P F. The prebail report raises misgivings about the likelihood that the accused may interfere with his minor son due to his age and nature of evidence.
3. Although the son lives with his maternal grandparents, I agree with the probation officer that due to the filial relationship of the witness and the accused, the former is a vulnerable witness. More so because he is the complainant in the Lower Court case.
4. The release of the accused is likely to have an adverse impact on the minor on whose life the accused has allegedly made an attempt. It is not clear to me whether these matters were considered by the Lower Court at the time of granting bail to the accused in the case before it. In the circumstances of this case, it seems to me that the possibility of the accused interfering with witnesses is very real in light of the serious nature of the charges facing him, I think the temptation to do so could be quite strong given his proximity to the witnesses as his relatives.
5. I believe these are compelling reasons to deny the accused bail at this time, in the present case. The application may be reviewed on application at a later date. The accused is to remain in custody pending such review. Hearing on 3rd March, 2014. Mention on 31st December, 2013 before the Deputy Registrar.

Delivered and signed at Malindi this 18th day of December, 2013 in the presence of

Court Clerk – John

C. W. Meoli

JUDGE