



CRIMINAL

- **Bail pending trial.**

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CR. CASE NO. 26 OF 2009

REPUBLICSTATE COUNSEL

VERSUS

LYDIA KAARI ACCUSED

RULING

The accused faces the offence of murder contrary to section 203 as read with 204 of the Penal Code. The accused was said to have committed the offence on 17th November 2008. Since the promulgation of the new Constitution, the courts have been inundated with applications for bail where the accused face the charge of murder amongst other capital offences. This is because the Constitution of Kenya 2010 under Article 49 (1) (h) provides as follows:-

49 (1) An arrested person has the right –

- a)
- b)
- c)
- d)

e)

f)

g)

h) To be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”

Although the Constitution does provide that bail can be granted, that right is not an absolute right. It is for that reason that I requested the probation office to do a pre-bail report to assist the court make a decision whether to release the accused. The one thing that stands out in the report made by the probation officer is that the accused after the offence was committed went into hiding. There was also report that the deceased father was of the view that if the accused if released on bail, the community may carry out mob justice against her. It is for that reason that I decline to grant the accused person the application that she seeks. It is rejected and I order that this trial do proceed to hearing before this court.

Dated, signed and delivered at Meru this 17th day of March 2011.

MARY KASANGO
JUDGE