



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Wangari (Criminal Case E009 of 2023)
[2023] KEHC 18948 (KLR) (22 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18948 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E009 OF 2023**

**PM MULWA, J
JUNE 22, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JANE WAMUCII WANGARI ACCUSED

RULING

1. The Accused herein Jane Wamucii Wangari is charged with the offence of murder contrary to section 203 as read together with section 204 of the [Penal Code](#). The particulars of the information dated 10th March 2023 states that on the 14th day of February 2023 at Kimende Location, Lari within Kiambu County, she murdered Carl Maundu Musembi.
2. According to the court records the accused underwent mental assessment on 1st March 2023 and found fit to plead.
3. On 16th March 2023 the accused took plea, denied the charge and a plea of not guilty was entered. Her counsel Mr. Odhiambo prayed that she be released on reasonable bail terms.
4. Mr. Muriuki, the state counsel informed the court that the state was not opposing the release of the accused person on bond but urged the court to call for a pre-bail report.
5. A pre-bail report was filed on 25th April 2023. The report states the family of the accused is willing to mobilize resources and pose bail for the accused and ensure she attends court whenever required. The deceased was her one and half year-old son. The family of the accused is still in pain as they had all developed an attachment to the late child. They are well known in Kimende where they have healthy relations with the community.
6. According to the Probation Officer, the report is favourable.



7. Article 49(1)(h) of the Constitution provides that: -

An accused person has the right...: -

(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.

8. The right to bail is not absolute and may be denied if there exists compelling reasons established by the prosecution.

9. In this case the prosecution admitted it had no compelling reasons to oppose bail. The family of the accused is willing to ensure the accused complies with the set conditions and attends court when required.

10. The Kenya Judiciary's Bail and Bond Policy Guidelines, March 2015 at p. 25 sets out judicial policy on bail as follows: -

The following procedures should apply to the bail hearing: -

- a. That the accused person is likely to fail to attend court proceedings; or
- b. That the accused person is likely to commit, or abet the commission of, a serious offence; or
- c. That the exception to the right to bail stipulated under Section 123A of the Criminal Procedure Code is applicable in the circumstances; or
- d. That the accused person is likely to endanger the safety of victims, individuals or the public; or
- e. That the accused person is likely to interfere with witnesses or evidence; or
- f. That the accused person is likely to endanger national security; or
- g. That it is in the public interest to detain the accused person in custody.

11. The pre-bail report states that this is the first time for the accused to be arrested and arraigned in a court of law. The family is willing to mobilize resources and bail her out if granted reasonable bond terms.

12. Accordingly, in the absence of any compelling reasons, I allow the application for the release of the accused on bail pending trial.

13. The accused may be released on a bond of Kshs 500,000/= with one surety of a similar amount. The accused shall not interfere with witnesses.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 22ND DAY OF JUNE, 2023.

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P.M. MULWA

JUDGE

In the presence of:

Kinyua/Duale – Court Assistants

Accused - Present



Mr. Muriuki - for State

N/A – by advocate for Accused

