



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 38 OF 2020

REPUBLIC.....PROSECUTOR

VS.

HARUN MBURU NGUCHU.....ACCUSED

RULING

1. **HARUN MBURU NGUCHU** has applied that he be released on bail.
2. The pre-bail probation report shows that the accused is a 32 year old young man, married with six year old child. By the time of his arrest, for the offence of murder, he had separated with his wife because of his excessive consumption of alcohol. Both his parents are deceased. He worked as a mechanic at eastern bypass. His family is not able to post bail for him but his uncles are willing to do so.
3. The victim's family is still bitter over the death of their kin but they confirm that the deceased and the accused were good friends and the offence of murder occurred when both of them were drunk.
4. Bail application was not opposed by the state.
5. There are no compelling reasons why bail should not be granted to the accused. There is no evidence that the accused is likely to commit an offence while on bail nor is there evidence that he will interfere with administration of justice. A case in point is a Canadian case **R. VS. JACQUE, 2008 N LTD 184 (CanLII)** thus:-

"R. V. MORALES, 1992 CanLII 53 (SCC), [1992] 3 S.C.R. 711 the Supreme Court of Canada gave guidance to trial judges conducting bail reviews. At page 736 Lamer, C.J.C. stated:- ...

At page 737 he went on to say:-

"Bail is not denied for all individuals who pose a risk of committing an offence or interfering with the administration of justice while on bail. Bail is denied only for those who pose a substantial likelihood of committing an offence or interfering with the administration of justice and only where this substantial likelihood endangers the protection or safety of the public. Moreover, detention is justified only when it is necessary for public safety. It is not justified where detention would merely be convenient or advantageous. Such grounds are sufficiently narrow to fulfill the first requirement of just cause under Section 11(e)."

DISPOSITION

6. **Harun Mburu Nguchu** shall be released pending determination of his trial on condition that he provides bond of Kshs.500,000/= with two sureties of similar amount.

RULING DATED AND DELIVERED AT KIAMBU THIS 15TH DAY OF APRIL, 2021.

MARY KASANGO

JUDGE

Coram:

C/A: Kevin

Accused: Present

For the Accused: N/A

For the Prosecution: Ms. Kathambi

COURT

Ruling delivered virtually.

MARY KASANGO

JUDGE