



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. 53 OF 2019**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**CHARLES MBOGO GITHINJI.....ACCUSED**

**RULING**

1. **CHARLES MBOGO GITHINJI** was charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the Penal Code. He pleaded not guilty and in his trial date is yet to be set. He pleaded not guilty.
2. He has applied for bail pending his trial. **Article 49(1)(h)** of the Constitution provides that an arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial, unless there are compelling reasons not to be released.
3. The accused's application to be released on bail/bond was not opposed by the prosecution. The function of granting bail/bond was discussed in the case **REPUBLIC VS. ROBERT ZIPPOR NZILU (2018) eKLR** as follows:-

***“10. Gravity of the offence as a consideration was appreciated by Mbogholi Msagha, J in CRIMINAL APPLICATION NO. 319 OF 2002 PRISCILLA JEMUTAI KOLONGE VS. REPUBLIC (unreported) at page 3, wherein he held as follows:-***

***‘However, the nature of the charge or offence and the seriousness of the punishment if the applicant is found guilty must be considered in applications of this nature. I subscribe to the observation that where the charge against the accused is more serious and punishment heavy, there are more probabilities and incentive to abscond, whereas in case of minor offences.’”***

4. There being no compelling reasons not to release accused on bail. I grant the following orders:-
  - (a) **Charles Mbogo Githinji** is grant bond of Kshs.1 million (one million) with two sureties of similar amounts.
  - (b) **Charles Mbogo Githinji** shall not interfere or contact the prosecution's witnesses pending trial.

**RULING DATED AND DELIVERED AT KIAMBU THIS 10TH DAY OF JUNE, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: Ndege

Accused: Present

For Accused: No appearance

DPP: Kasyoka

**COURT**

RULING delivered virtually.

**MARY KASANGO**

**JUDGE**