



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. E010 OF 2021**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MARY ANNE NYAMBURA NGANGA.....ACCUSED**

**RULING**

1. **MARY ANNE NYAMBURA NGANGA** was charged in this matter, with murder contrary to **Section 203** as read with **Section 204** of the Penal Code. She pleaded not guilty. Her trial is yet to commence. She applied for bail.

2. I have considered the pre-bail in the probation report. It portrays the accused as a young lady of 22 years who comes from a very close knit family. The accused seems to have the support of her family and community in general in her application for bail.

3. **Article 49(1)(h)** of the Constitution provides that an arrested person has right to be released on bond/bail on reasonable condition, pending charge or trial unless there are compelling reasons not to be released.

4. There are no compelling reasons shown to the court, why the accused should not be released pending her trial. The prosecution did not oppose the bail application.

5. The primary consideration when a bail application is made is whether the accused will attend trial. This was reiterated in the case **REPUBLIC VS. ROBERT ZIPPOR NZILU (2018) eKLR.**

***“I associate myself with the view expressed by Muriithi, J in KELLY KASES BUNJIKA VS. REPUBLIC (supra) that:***

***‘It is clear that the primary consideration for bail is whether the accused will attend his trial for the charges facing him, and it must, therefore, be a compelling reason if it is demonstrated that “the accused person is likely to fail to attend court proceedings”. The question in this matter becomes whether there is, on a balance of probabilities evidence that the accused is likely to abscond. The accused claims to have a good defence to the charge of escape from custody. The nature of such defence and evidence is not disclosed. The accused merely asserts his “constitutional right to be granted Bond/Bail on reasonable and favourable terms.”’***

6. The accused has confirmed through the probation officer her commitment to attend her trial. I have no reason to doubt her sincerity.

7. Accordingly, I grant the following orders:-

a. **MARY ANNE NYAMBURA NG’ANG’A** is granted bond of Kshs.250,000/= and one surety of similar amount.

b. The accused shall not interfere with the prosecution’s witnesses.

**RULING DATED and DELIVERED at KIAMBU this 3<sup>rd</sup> day of JUNE, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant.....Ndege

Applicant:.....Present

Respondent.....Mr. Wachira

**COURT**

RULING delivered virtually.

**MARY KASANGO**

**JUDGE**