



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. E022 OF 2021**

**REPUBLIC.....RESPONDENT**

**VERSUS**

**EVANS KARANI WANYAMU.....ACCUSED**

**RULING**

1. **EVANS KARANI WANYAMU** faces the charge of murder to which he pleaded not guilty. He has applied for bail pending his trial.
2. Although the court requested for a pre-bail probation report to be filed, by the time the bail application was argued by accused's counsel that report was not on record.
3. Whereas the prosecution did not object to the release of the accused on bail, the accused's counsel did not inform the court whether the accused would be a danger to the public or to himself if released on bail, there was no information whether the accused has a fixed abode or whether he could jeopardise this trial by interfering with the prosecution's witness. Most importantly, this Court needs to know, before granting the accused bail, whether the public is likely to harm him if he is out on bond. One who knows the Kenyan Society, knows very well, that such threats are even present towards those who are suspected to have committed a crime and perhaps much more as in this case, where the accused is charged with a serious offence of murder.
4. In the absence of the above information, which the accused's counsel did not avail I find and hold it is a compelling reason within the meaning of **Article 49(1)(h)** of the Constitution to decline to grant the accused bail. In declining to grant the accused bail at this time, it is no derogation of his right to presumption of innocence. It is merely the exercise of the Court's mandate and discretion in considering bail application. I place reliance on the definition of compelling reasons in the case **REPUBLIC V. MBITI MUNGUTI (2020) eKLR** thus:-

**DISPOSITION**

5. In the end, I am satisfied that at this stage the accused should be denied bail. Accordingly, bail application is declined.

***RULING DATED and DELIVERED at KIAMBU this 6<sup>th</sup> day of JULY, 2021.***

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Ndege

For the Accused : Mr. Njehu

For DPP : Ms. Kathambi

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**