



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 27 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

FRANCIS MARUBU CHEGE.....ACCUSED

RULING

1. The accused person prays for bail pending trial.
2. The application is opposed by the Director of Public Prosecutions on three fronts: that the applicant is a flight-risk; that the pre-bail report filed by the Probation Officer indicates that he is a gang member; and, that his immediate family is unwilling to receive him back.
3. Learned counsel for the accused replied that the accused resides away from the *locus in quo* and has no previous convictions. Counsel also submitted that there is no evidence that the family of the accused are opposed to his release. Furthermore, the accused is still deemed innocent. In a synopsis, counsel submitted that there are no compelling reasons for denial of bail.
4. The overarching objective of bail is to ensure the accused *attends* trial. See *Muraguri v Republic* [1989] KLR 181, *Republic v Elias Kipkemoi*, Eldoret High Court Criminal Case 42 of 2014 (unreported).
5. It is a truism that the accused is presumed innocent. Under **Articles 49 (1) (h) and 50 of the Constitution**, an accused person is entitled to bail unless there are compelling circumstances.
6. Other relevant matters to be considered by the court include: The nature of the charge; the likely sentence; previous criminal records; the views of the family of the victim; the possibility of interference with witnesses; the temptation to abscond; and, the safety of the accused.
7. The **Victims Protection Act 2014** also requires that the views of victim's family be considered at this stage.
8. The accused is charged with *murder*. The Director of Public Prosecutions informs the High Court that on the 1st January 2017 at Kiangochi Trading Centre, Murang'a East Sub-County within Murang'a County, he murdered *John Irungu Karuga*.
9. The pre-bail report dated 15th December 2020 is unfavourable. It concludes that he is the leader or member of a local gang. After the homicide, irate villagers demolished his house and torched his property. There is a likelihood of further acts of revenge. The local administration and the victim's family are strongly opposed to his release.
10. I find that the family of the accused are prepared to stand surety for him. However, the accused *vanished* from the *locus in quo* and was arrested over *two years* later. I have concluded that he is a *flight risk*. Furthermore, and as detailed in the social report, there is a real risk of violence which could endanger his *own* security.
11. In the end, I find that there are *compelling* reasons for denial of bail. Bail is refused. I direct the Deputy Registrar to allocate early hearing dates for the trial.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 5TH DAY OF OCTOBER 2021.

KANYI KIMONDO

JUDGE

Ruling read in chambers in the presence of-

The accused.

Ms. A. Gakumu for the Republic.

Ms. Dorcas Waichuhi, Court Assistant.