



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CRIMINAL CASE NO.E048 OF 2021

ISAAC GICHUKI WACHIRA.....APPLICANT

VERSUS

REPUBLIC.....PROSECUTOR

RULING

1. The accused person, (Applicant herein) is charged with the offence of **Murder contrary to Section 203 as read with Section 204 of the Penal Code.**

The particulars being that;

“On the 29th June 2021 at Viwa Wines and Spirits Shop, Komarock Njiru Sub-County within Nairobi County the accused person murdered VERONICA WAIRIMU.

2. The accused person was arraigned in court on **4th August, 2021** and since he already had legal representation, he was referred for mental assessment before he could take plea.

3. On **18th August, 2021**, the accused person took plea and he pleaded **“NOT GUILTY”**, The accused person (Applicant) then applied to be released on bond and or bail through his counsel **Mr. Kioko**. The State, through their counsel, **Mr. Naulike** did not object to the accused person being admitted to bail as they did not have any compelling reason to do so.

4. The court, in taking consideration of the provisions of the **Victim’s Protection Act**, directed that the Probation Officer to prepare and submits to court a pre-bail report to enable the court set out appropriate bail terms. Accordingly, the Probation Officer prepared and filed a pre-bail report on **22nd September, 2021** after conducting a social inquiry on the accused person.

5. I have read through the **Probation Officer’s Bail Information Report** dated and filed on **22nd September, 2021**. I find that the Probation Officer, **Mercy Kanyangi**, after carrying out the inquiries on the accused person found that he was a flight risk following an incident of running away. She also found that he was a threat to himself having attempted to commit suicide more than once and had given wrong and misleading information. She then recommended that he was a likely candidate for absconding and skipping court but urged court to be guided by the findings in the report in making an informed determination of releasing the accused person on bail/bond.

6. In view of the reasons given by the Probation Officer as to why the accused person may not be suitable for release on bond/bail, I have also read through the committal bundles on record. I note that the reasons given to show that the accused person is a likely candidate for absconding and skipping court are based on what the accused person stated in his statement which is on record. Reading through the said statement, I found that indeed the accused person gave an account of how he tried to kill himself but failed. He also stated that he went to his home and told his family what had happened and this is how he was urged, and he agreed to hand himself over to the police and was arrested. My own view of tis, is that the accused did not escape and go into hiding. He went to his family home, where, even if he had not handed himself over to the police, he would have been traced. Infact, I believe he went to his family to seek help after attempting to end his life.

7. I also wish to point out that there is evidence by the Probation Officer, of commitment by the accused person’s father being ready and willing to stand as a surety for the accused person using the title deed to the family land at Oyomirerie in Laikipia Sub-County in Laikipia County. The said father, is said to be a Reverend Pastor of the Presbyterian Church of East Africa. I want to believe that a person of such standing in society would be the most suited in guaranteeing and assuring court of the accused person’s availability and attendance in court whenever he is required. This can even be discerned from the fact that he is among the family members who ensured he handed himself over to the police.

8. Further, as a Pastor, I believe the accused person's father is the best suited person to ensure his social, mental and psychological stability so as to guard against any self risk to his life.

9. I therefore allow the application by the accused/Applicant to be released on bail and accordingly order so.

10. The accused person may be released on his own bond of Kshs.500,000/= with a surety of a similar amount.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED THIS 3RD DAY OF NOVEMBER, 2021

D. O. CHEPKWONY

JUDGE

3/11/2021

In the presence of:

No appearance by either party

Court Assistant - Gitonga