



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 34 OF 2020

BETWEEN

REPUBLIC.....PROSECUTOR

VERSUS

REHAB WAIRIMU NGUGI.....ACCUSED

RULING

1. **REHAB WAIRIMU NGUGI** is charged with the offence of murder. She pleaded not guilty to the offence and has now applied that she be released on bail pending her trial.
2. I have considered the probation pre-bail report. I note that Rehab comes from a very humble background. She prays she be released on reasonable bail/bond terms.
3. **Article 49(1)(h)** of the Constitution provides that an arrested person has a right to be released on bond or bail on reasonable conditions pending charge or trial unless there are compelling reasons not to be released. The court however retains discretion of determination on what those compelling reasons are. In the case **REPUBLIC VS. DANFORD KABAGE MWANGI (2016) eKLR** made this clear as follows:-

“I hold the view that after considering the circumstances of each case, the court has discretion to grant or refuse bail provided that the discretion is exercised judicially. In REPUBLIC VS MILTON KABULIT & 60 OTHERS Justice Emukule in a well-reasoned decision said:-

‘My understanding of Section (sic) 49 (1) (g) (h) is firstly, that the right of an arrested person to bond or bail in respect of any offence is solely at the discretion of the court seized of the application. Secondly, the only accused entitled to a right to an automatic bond or bail are those charged with offences (which may be referred to as “petty offences”) the punishment of which if found guilty and convicted) is either a fine only, or imprisonment for a term of less than six months.’

4. In this case bearing the information contained in the probation pre-bail report, I find that there are no compelling reasons to refuse bail.

DISPOSITION

5. I am satisfied that **Rehab Wairimu Ngugi** is entitled to bail and accordingly I release her pending her trial on her personal bond of Kshs.100,000/= with one surety of the same amount..

RULING DATED AND DELIVERED AT KIAMBU THIS 18TH DAY OF NOVEMBER, 2021.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Maurice

For DPP :- Mr. Kasyoka

For Accused :- Mr. Mulinge

Accused ***Rehab Wairimu Ngugi***:

COURT

RULING delivered virtually.

MARY KASANGO

JUDGE