

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO 17 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

GILBERT K. LANGAT.....ACCUSED

RULING

1. In this case where the accused person stands charged with murder contrary to Section 203 as read with Section 204 of the Penal Code, Counsel for the accused person Mr. Mugumya has orally asked this court to grant his client bail. The state through Principal Prosecuting Counsel Mr. Murithi opposes the request for release of the accused on bail on the ground that the pre-bail report filed is not favourable.

2. Under Article 49 (1) (h) of the Constitution of Kenya 2010 every arrested person has a right to be released on bail or bond on reasonable conditions pending charge or trial. The Article specifically provides as follows-

“49 (1) An arrested person has the right...

(h) to be released on bond or bail on reasonable conditions, pending charge or trial, unless there are compelling reasons not to be so released.”

3. Courts have held that the primary duty to demonstrate the compelling reasons for denial of bond or bail lies with the state. This court as a court of justice, also, cannot close its eyes to any compelling reasons that come into its knowledge, if such reasons would serve the broader interests of justice, and ensure the safety and security of the accused person.

4. The State opposes the request for release of the accused on bail or bond on the grounds that the pre-bail report filed by the Probation Officer is not favourable.

5. I have perused the pre-bail report which was undated and filed on 4th November 2019 signed by Ezekiel Langat, the Probation Officer, Bomet. The report recorded that the accused person is a reserved young man aged 29 years and a standard 7 dropout. He did manual jobs and the two families of the deceased and accused lived not far from each other. The deceased's family were still bitter, and the acting area Chief had indicated that it was not appropriate at the moment to release the accused person on bail.

6. In my view, the safety and security of life of everybody including that the accused person herein is very important. Taking into account the information disclosed to this court, I am convinced that in the circumstances of this matter, the safety of the accused person is currently an issue, and is a compelling reason for the court, at the present time to deny him bail.

7. I thus decline to release the accused person on bail/bond at the present. An application for bail/bond can however be made at any time if the circumstances change.

Dated and delivered at Bomet this 5th day of March 2020.

GEORGE DULU

JUDGE

5/3/2020