



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BOMET**

**CRIMINAL CASE NO.17 OF 2019**

**REPUBLIC.....PROSECUTION**

**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 has orally asked this court to grant his client bail. The State opposes the request on the ground that the pre-bail report file 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 pending charge or trial. The Article 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, however, cannot close its eyes to any compelling reasons that come into its knowledge, if such reasons would serve the broader interests of justice, and 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 but filed on 4<sup>th</sup> November 2019 signed by Ezekiel Langat, the Probation Officer, Bomet. The report records that the accused is a reserved young man aged 29 years and standard 7 dropout. He does manual jobs and that the two families of the deceased and accused live not far from each other and the deceased's family were still bitter. The acting chief has indicated that it is not appropriate at the moment to release the accused on bail.

6. In my view, the safety and security of life of everybody including the accused person is very important. I am convinced that in the circumstances of this matter, the safety of the accused person is a compelling reason for the time being to deny him bond.

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 5<sup>th</sup> day of March 2020.**

**George Dulu**

**JUDGE**