

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO 25 OF 2019

REPUBLIC.....PROSECUTOR

VERSUS

PHYLIS KWAMBOKA ORANGO.....ACCUSED

RULING

1. Before me is an application brought by way of Notice of Motion dated 27th November 2019 by counsel seeking the release of the accused person herein Phylis Kwamboka Orango who is charged with murder on bail pending trial. The application was filed under Article 49 (1) (h); 20 (3), 4 and (5); 21 (1); 22 (3) and (4) and 50 (2) (a) of the constitution of Kenya 2010, and Section 123 of the Criminal Procedure Code (Cap 75).

2. The application has grounds on the face of the Notice of Motion and is supported by the affidavit of the accused person sworn on 27th November 2019 in which it was deponed inter alia that the investigations are complete.

3. I note that a pre-bail report dated 7th January 2020 signed by Ezekiel Lagat the Probation Officer Bomet was filed in which it was recommended that the accused may be released on bail.

4. When the case came up for mention before me on 2nd March 2020, counsel for the accused person Mr. Omaiyo urged the court to release her on bail. The Principal Prosecuting Counsel Mr. Murithi on his part did not oppose bail, but left the matter to be decided at the discretion of the court.

5. Bail is a constitutional right. 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 terms unless there exist compelling reasons for denial of bail

6. The State it has the primary responsibility of demonstrating any existing compelling reasons has no such compelling reasons, and the Principal Prosecuting Counsel has left the matter to be determined at the court's discretion.

7. I myself see no compelling reasons to deny the accused person bail herein.

8. I thus allow the application and order as follows:-

1. The accused will be released on signing her own bond of Ksh.300,000/= with one surety of similar amount.

2. In the alternative the accused will be released on payment of cash bail of Ksh.200,000/=

3. The accused will not interfere with prosecution witnesses.

4. The accused will attend every mention and the hearing of the case until it is finalized.

Dated and delivered at Bomet this 5th March 2020.

G. DULU

JUDGE

5/3/2020