



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NUMBER 22 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

DENNIS BARASA WANYONYI.....ACCUSED

R U L I N G

1. The accused person herein Dennis Baraza Wanyonyi was charged with **Murder Contrary to Section 203 as read with 204 of the Penal Code**.
2. It is alleged that on 26th April 2018 at Manyani Estate, Nakuru Town in Nakuru East Sub County within Nakuru County he murdered Juma Abdi.
3. In yet another unreferenced/unserialised report, bearing no office stamp, a Pre-Bail Report dated 24th January 2020 was filed on 27th January 2020. It is to be noted this report was to assist the court to determine appropriate bail terms as the accused was granted bond of Ksh. 300,000/= on 10th May 2018 and to date has never been able to raise the same.
4. The pre-bail report states that the deceased was the accused person's cousin, the son to an unnamed uncle, and that the two families had not spoken about the incident since it happened. The Probation Officer suggested some kind of reconciliation process.
5. The report has a heading "**Victim's Sentiments**" but there is no evidence that they were interviewed except for some statement whose source is unknown that "*there are reports that the victim's mother still harbours a lot of ill sentiments towards the family of the accused*" and that "*there is no telling what might transpire if the accused is given bond.*" Clearly the officer did not peruse the file to see that accused had already been granted bond and the issue here was review of the existing bond terms.
6. The report only went on to confirm **why** the accused was unable to raise bond, because of the state of his family, living with a single mother, reluctance of relatives to stand surety but no recommendation of how best to deal with this situation. Whether he was a flight risk? What the local administration thinks about him and his family, the views of his previous employers, whether any could vouch for him? Etc. In my humble view this useful information that would have further assisted the court.
7. Taking into consideration the period the accused has been in custody and the fact that he is unable to raise the bond granted previously, I think it is only fair to re-assess and review the value of the bond. Bond terms should not be so harsh as to end up being a violation of the right of an accused person the bail. Bearing in mind that the basis for bond terms is the commitment of an accused person through the surety to the court that they will attend court as and when required until the determination of the case.
8. The bond terms are reviewed at Ksh. 200,000/= with one (1) surety of similar amount or two joint (2) sureties each of Ksh. 100,000/=.

The accused will ensure he attends court at all times unless otherwise directed by court.

The sureties will be assessed by the Deputy Registrar.

Delivered, Dated and Signed at Nakuru this 9th day of April, 2020.

Mumbua T. Matheka

Judge

In the presence of:-

Edna Court Assistant

For state Ms Mburu

For accused Mr wambeyi

Accused present