

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

CRIMINAL CASE NO. 6 OF 2020

WYCLIFFE LIALI WAFULA.....APPLICANT

VERSES

REPUBLICRESPONDENT

RULING

1. In his notice of motion dated 21st February 2020, the Applicant has prayed for bond pending the hearing of this case. The application is supported by the sworn affidavit of his advocate on record Mr Bikundo. He has deponed that the Applicant has a Constitutional right to be granted bond and he has cited several articles of the Constitution.
2. He further argued against the argument by the Investigating Officer one TOM OGARO that his client would be a risk to his wife one LINDA ONGEFU MWANGA who is a key witness in this murder charge.
3. The said TOM OGARO has sworn a Replying Affidavit dated 29th February, 2020 in which he has among others attached the witness statement in particular that of the Applicant's wife who has claimed that the accused will surely attack her if he is released as she is a key witness in the case.
4. Ogaro has further claimed that all the witnesses were within the vicinity of the scene and are generally relatives and if the Applicant is granted bond he may interfere with the witnesses.
5. The court has perused the application as well as the submissions by the Applicant. It is indeed true that the issue of granting a suspect bond is a right pursuant to Article 49 (1) (h) of the Constitution. The same also states that one may not be granted if the court thinks that it is not expedient in the circumstances.
6. In this case, this court does find that the Applicant merits being granted bail pending the determination of the suit. However, having read the affidavit of the Investigating Officer, I find that for now it may not be timely to do so. This is for the simple reason that the key witness who is the applicant's wife is yet to testify. The evidence as presented in the Investigating Officer affidavit including the assault on his wife is compelling enough to deny him bond for now.
7. This court shall however at the appropriate time especially after the key witnesses have testified shall consider granting the Applicant bond. For now, the same is disallowed.

Dated, signed and delivered via Zoom at Kitale this 5th day of May, 2020.

H. K. CHEMITEI

JUDGE

5/5/2020