



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 38 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

GEOFFREY GITHOGA GACHOKA.....ACCUSED

RULING

1. The accused prays for bail pending trial.
2. The application is contested by the Republic.
3. There is filed a comprehensive *pre-bail report* dated 14th January 2019.
4. Learned counsel for the accused challenged the report. He submitted that there is no evidence that the accused is a flight risk; or, that he is a man of questionable character.
5. The learned Prosecution Counsel submitted that there are no guarantees that the accused will attend the trial.
6. The accused is deemed *innocent*. Under Article 49 (1) (h) of the Constitution, he is entitled to bail pending trial *unless* there are *compelling* circumstances. *Republic v Elias Kipkemoi*, Eldoret High Court Criminal Case 42 of 2014 (unreported).
7. The overarching objective of bail is to ensure the accused *attends* his trial. *Muraguri v Republic* [1989] KLR 181.
8. Other relevant considerations include the nature of the charge; the likely sentence; previous criminal records, the *views* of the *family of the victim*, the possibility of interference with witnesses; the temptation to abscond; and, the safety of the accused.
9. The accused is charged for the unlawful killing of *Beatrice Wangari Tumu* on 17th April 2018 at *Kiamirango Village, Kandara Sub-County, Murang'a County*.
10. The social report has disclosed the *sources* of information including the family of the deceased, local administration and community members. It states that the accused “*went into hiding when he learnt police were looking for him*”. He was arrested in Nakuru.
11. The ***Victims Protection Act 2014*** requires the views of victim’s family to be taken into account at this stage. There is understandable bitterness and angst for loss of their relative.
12. The allegations that the accused is a man of “questionable character” are pure conjecture. But the accused went into *hiding* after the incident and was arrested far away in *Nakuru*. That raises the prospect of *not* attending to his trial. It is a *compelling* reason *not* to release the accused on bail.
13. The application for bail is *refused*.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 16th day January 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of

Accused.

Mr. Kimani for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.