



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**CRIMINAL CASE NO. 43 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOSEPH MAINA TUMUTI.....ACCUSED**

**RULING**

1. The accused prays for bail pending trial.
2. A comprehensive *pre-bail report* was filed on 16<sup>th</sup> January 2019.
3. Learned counsel for the accused challenged the report. He submitted that it blows hot and cold; and, that it is a poor foundation for denial of bail.
4. The learned Prosecution Counsel did *not* oppose the application.
5. The accused is presumed *innocent*. Under **Article 49 (1) (h)** of the *Constitution*, he is entitled to bail pending trial *unless* there are *compelling* circumstances.
6. The overarching objective of bail is to ensure the accused *attends* his trial. See **Muraguri v Republic** [1989] KLR 181, **Republic v Elias Kipkemoi**, Eldoret High Court Criminal Case 42 of 2014 (unreported).
7. Other relevant matters to be considered by the court 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.
8. The accused is charged for the unlawful killing of *Beatrice Wanjiru Gituku* on 13<sup>th</sup> November 2018 at *Milimani Estate, Maragua within Murang'a County*.
9. The social report indicates that the deceased was the *wife* of the accused. The *father* of the deceased expressed bitterness; and, was apprehensive that the accused will *interfere* with witnesses. The **Victims Protection Act 2014** requires the views of victim's family to be taken into account at this stage.
10. I commiserate with the accused. But considering the *relationship* between him and the deceased; there is a *likelihood* of interfering with the *witnesses* or evidence. It is a *compelling* reason *not* to release the accused on bail.
11. The application for bail is *refused*.

It is so ordered.

**DATED, SIGNED and DELIVERED at MURANG'A this 5<sup>th</sup> day February 2019.**

**KANYI KIMONDO**

**JUDGE**

**Ruling read in open court in the presence of-**

Accused.

No appearance by counsel for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.