



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 14 OF 2019

LESIT, J.

REPUBLIC.....PROSECUTOR

VERSUS

SHARON KHALAI MARANI.....ACCUSED

RULING ON BAIL

1. The accused **Sharon Khalai Marani** is charged with murder contrary to **section 203** of the **Penal Code**. The accused has filed a Notice of Motion application dated 2nd April, 2019 in which she seeks the following prayers:

(i) That this Honourable Court be pleased to admit the Applicant to bail and consequently the accused be and is hereby released from custody on such terms that the court may find reasonable pending hearing and determination of this case.

(ii) That any other order the court may deem fit and just to grant in the circumstances.

2. The application is premised on following grounds on the face of the motion:

(i) That the Applicant was arrested on the 1st of March, 2019 on suspicion of having committed an assault. Later the charge of murder was preferred. The Applicant has been incarcerated in custody since that date and remains in custody to date.

(ii) That the Applicant has been charged with the offence of murder contrary to **section 203** of the **Penal Code** and has been co-operating with the police without fault since her arrest.

(iii) That the applicant has a child and sisters who depend on her as she is the sole bread winner in the family.

(iv) That the applicant has been and is still suffering prolonged pre-trial punishment as she has been in custody since the 1st March 2019 when she was arrested.

(v) That she is constitutionally entitled under **Article 49(1)(h)** of the **Constitution of Kenya** to be released on bond or bail, on reasonable conditions and terms, pending trial and there are no compelling or irresistible reasons why she should be denied bail as required by **Article 49(1)(h)** of the **Constitution** of Kenya.

(vi) That the applicant is entitled to bail on ground of the principle of presumption of innocence until proven guilty and further incarceration acts to defeat this presumption which is a fundamental right.

(vii) That the applicant is ready, able and willing to abide by any bond or bail terms and conditions that may be imposed by this Honourable Court.

(viii) That the applicant will not abscond and will attend all the proceedings whenever and wherever required.

(ix) That the applicant is bonafide, well merited, well founded and is made in the interest of justice and it would be fair and just to grant the orders sought.

(x) That no loss or prejudice will be suffered by the Respondent if the orders sought herein above are granted.

3. The application is supported by an affidavit sworn by the accused/applicant dated same day. I have considered the said affidavit.
4. The State represented by Mr. Otieno, Learned Prosecution Counsel did not oppose the application. He stated that the investigation and prosecution had no compelling reason to oppose the application.
5. Mr. Simiyu for the accused/applicant in his submission urged that the accused had a child in school and that she lived in Umoja. He submitted that prior to her arrest the accused was working with her sister at Machokaa Ranch and would return to that job upon release.
6. I have considered submission by both sides. The release of accused on bail is unopposed. I have noted from the committal bundle that this appears to be an offence of passion, even though the court for now does not have all the facts. The accused is innocent until proved guilty.
7. The accused is entitled to bail and I do not see any reason to decline it. In the circumstances, the application is granted on the following terms:

1) (i) Accused may be released on deposit of KShs.50,000/=.

(ii) In the alternative accused may be released on a bond of KShs.200,000/= with one surety of like amount.

2) (i) The accused shall be of good behavior and should not commit any offence during the pendency of this trial.

(ii) The accused should refrain from interfering with the witnesses, whether directly or through proxy.

3) Any breach of these terms may lead to the cancelation of the bond.

DATED AT NAIROBI THIS 4TH DAY OF APRIL, 2019.

LESIT, J

JUDGE