



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

HCRC NO.50 OF 2019

DAVID ANJERE AMUNYA OMUHOLO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This is a ruling by accused for bond application pending hearing and determination of this suit. The accused has been charged with the offence of **murder contrary to section 204 of the penal code**. Particulars are that on the 19th day of September 2019 at unknown time within Njoro Township of Njoro Sub County in Nakuru County, accused murdered **BC**.
2. The investigating officer in this case, one **No.67602 CPL Omolo Vonvix Nyamondo** swore affidavit dated 4th November 2019 stating reasons why the accused should be denied bond.
3. He averred that the accused was arrested on 10th day of October 2019 at Kwisero Sub County within Kakamega County after he escaped from Njoro Sub County after the commission of the offence.
4. He averred that the complainant who is a minor is aged four and half years and was defiled and murdered by the accused on 19th day of September 2019. He further stated that accused was arrested at Kwisero for defilement and murder of a girl aged 10 years who has not been recovered to date; that the matter is still under investigation.
5. The investigating officer averred that owing to the fact that the accused person committed an offence in Njoro and escaped to Kwisero where he committed another offence, he prayed that the court deny him bond as he is a flight risk, that he does not have a permanent home or fixed place of abode, and he may abscond.
6. In response counsel for the accused submitted that **Article 49(h) (i)** of the constitution gives the accused a right to be released on bond and that his antecedent should not be looked at. He submitted that what happened during arrest should not be looked at and that accused has a family, which he takes care of and that bond is an agreement between the accused, surety and the court. He submitted that the person who will stand surety would undertake to produce the accused in court when required.
7. Counsel submitted that the accused is not a flight risk and anyone suspected would be expected to run away from place of offence.
8. I have considered averments in the affidavit filed and response by counsel for the accused person. I have also considered circumstances surrounding the offence herein.
9. The investigating officer has indicated that before the accused was arrested for this offence, he is suspected to have committed a similar offence in Kwisero where he was arrested. In view of the fact that the other matter is still under investigation and more so the fact that the child allegedly defiled and murdered having still being traced as indicating in the affidavit, I find it compelling reason to deny accused bond at this stage. My view is that, release may prejudice investigations in the other matter.
10. From the foregoing, I find that there are compelling reasons to deny accused bond. Accused may reapply to be released on bond later in the trial.

11. FINAL ORDERS

1. **Application for bond is hereby dismissed.**
2. **Accused may renew bond application later in the trial.**

Ruling dated, signed and delivered at Nakuru this 10th day of December, 2019.

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RACHEL NGETICH

JUDGE

IN THE PRESENCE OF:-

Court Assistants – Schola and Jeniffer

Mr. Geke for accused