



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL CASE NO. 63 OF 2019**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHN KAMAU WANGÉNDU.....ACCUSED**

**RULING**

John Kamau Wangéndu is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of this offence are that on the night of 8<sup>th</sup> and 9<sup>th</sup> September 2019 at Njiru area within Nairobi Country he murdered Mary Mulinge Nyamu. The accused pleaded not guilty to this charge. He has now come to this court seeking to be admitted to bail/bond pending the hearing and determination of this case. He filed his application on 11<sup>th</sup> November 2019. It is dated 5<sup>th</sup> November 2019. He has supported his application with an affidavit sworn on even date.

The application is supported by the grounds found on the face of the application and on the supporting affidavit. He states that he has a right to bail/bond as provided under Article 49 (1) (h) of the Constitution unless there are compelling reasons to deny him bond/bail. He states that the prosecution has not advanced any compelling reasons to persuade this court to deny him bond/bail. He states that he will attend court when required to do so until this case is fully determined; that he will not interfere with witnesses; that he cooperated with the police in their investigations; that he is a Kenyan citizen with known fixed abode at Maji Mazuri in Kasarani and that he will abide by the directions of this court.

Mr. Karanja, counsel for the accused submitted along the grounds relied on by the accused and that this court considers the application and admit the accused to bond/bail.

The application is opposed by the prosecution. The grounds in opposition are contained in the Replying Affidavit by CPL Edward M. Mlanda the Investigating Officer in this case. CPL Mlanda deposes that the accused was raised in an orphanage and does not know the whereabouts of his relatives; that he does not have a fixed abode and has been living with a friend within Njiru and that it is not known if the friend is willing to accommodate him. He further deposes that there is likelihood that the accused may abscond because he is aware of the strength of the prosecution case against him.

This court called for a pre-bail report from the probation office. The report was filed on 26<sup>th</sup> November 2019. It shows that both the parents of the accused are deceased but he has siblings who live in Nairobi. The information from his siblings is not adverse to the accused and his sister Jane Muthoni has shown willingness to stand surety for him.

I have considered this application and the law on bail/bond. I am also aware of the Bail/Bond Policy Guidelines. The grounds raised in opposition of this application are not solid and in my view are not persuasive to this court to deny the accused bail. I will and do hereby allow this application and set the following terms and conditions of bail:

- a. That the accused shall execute a bond of eight hundred thousand Kenya shillings (800,000) with one surety of similar amount.**
- b. That in the alternative the accused shall pay cash bail in the amount of two hundred thousand Kenya shillings (200,000).**
- c. That the accused shall not do anything that may compromise fair trial in respect of this case.**
- d. That he shall abide by these terms and conditions and attend court at all times when required to do so.**

Orders shall issue accordingly.

**Signed, dated and delivered this 10<sup>th</sup> day of December 2019.**

**S. N. Mutuku**

**Judge**