



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL CASE NO. 10 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOSEPH MWANGI WAIRIMU.....ACCUSED**

**RULING**

The accused Joseph Mwangi Wairimu 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 3<sup>rd</sup> day of January 2018 at Gikomba along New Pumwani Road in Nairobi within Nairobi County he murdered Alex Kimenju Maigwa. He has pleaded not guilty to this charge. He is represented by Mr. Omari who on 12<sup>th</sup> February 2018 sought to be allowed to put in oral application to admit the accused to bail/bond pending the hearing and determination of this case. The prosecution is not opposed to the application to release of the accused on bond/bail but asked the court to call for a pre-bail report. The report has been filed. I have read the pre-bail report and other than the fears expressed by the brother of the deceased that the accused may interfere with witnesses and threaten the lives of the family of the deceased, the report is not adverse.

I have considered the application and find no reason to decline it. I am aware that the family of the deceased is expressing fears that the accused may interfere with witnesses and may threaten their lives. While I do not downplay these fears, it is my view that the fact that the Investigating Officer did not advance reasons through a replying affidavit urging this court to deny the accused bond means that there are no compelling reasons to persuade this court to decline this application. The main consideration as far as this application is concerned is that the accused will attend court for his trial and I have no evidence that he will not. I will therefore, and do hereby, allow the application and admit the accused to bail on the following terms:

- (a) The accused shall execute a bond of Kenya Shillings two millions (Kshs 2,000,000) with two sureties of Kenya Shillings one million (1,000,000) each.**
- (b) The accused is at liberty to deposit with the Registrar of this court cash bail of Kenya Shillings Five Hundred Thousand (Kshs 500,000).**
- (c) The accused is cautioned against interfering with the prosecution witnesses. More specifically he is cautioned against doing any act that may pose danger to the family of the deceased. Should anything of this nature occur, this court will take appropriate measures including cancelling this bond/bail.**
- (d) The accused shall attend court when required to do so until this case is heard and fully determined.**

Orders shall issue accordingly.

**Delivered, dated and signed this 6<sup>th</sup> day of March 2018.**

**S. N. Mutuku**

**Judge**