



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL CASE NO. 38 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MORGAN SIFUNA WAFULA.....ACCUSED**

**RULING**

Morgan Sifuna Wafula, the accused, is charged with the murder of Monica Nakhumicha Wafula contrary to section 203 as read with section 204 of the Penal Code. The offence is alleged to have been committed on 22<sup>nd</sup> July 2017 at Shungoini Village in Riruta Satellite within Nairobi County. The accused has denied committing this offence. This case is fixed for hearing on 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> November 2018. Pending the hearing and determination of the case, the accused has, through his advocate Mr. Businge, applied to be admitted to bail/bond. In the application dated 20<sup>th</sup> June 2018 and filed on the same date, the accused raises several grounds in support of this application. He states that he is suffering from various ailments and diseases and that his situation is getting serious and is deteriorating; that he has a fixed place of abode within Nairobi; that he is the sole bread winner for his family; that he has a one-year-old baby that requires his presence; that he is not a flight risk; that he will not interfere with witnesses; that he will not commit or abet the commission of any offence; that he will not endanger the public and that the Respondent will not suffer any prejudice if the prayers sought are granted. The application is supported by an affidavit sworn by the accused on 20<sup>th</sup> June 2018.

The application is not opposed by the prosecution. However, the prosecution applied that a pre-bail report be filed before the accused is admitted to bail. Such a report has been filed. It is dated 2<sup>nd</sup> October 2018. I have read it and I note that it is favourable with the family of the accused willing to support him by providing surety for the accused. I however note that the report does not capture any information regarding the family of the deceased. In that regard, the prosecutor informed the court that the family of the deceased was not traced to provide the information required. I find nothing adverse against the grant of the prayers sought in this application. I will therefore, and do hereby, allow the application and admit the accused to bail pending the hearing and determination of this case. The terms and conditions of bail are set as follows:

- a. The accused, Morgan Sifuna Wafula is hereby admitted to bail pending the hearing and determination of this case.**
- b. He shall execute a bond of Kenya Shillings One Million (Kshs 1,000,000) with one surety of similar amount.**
- c. Alternatively, the accused shall pay cash bail of Kenya Shillings Three Hundred Thousand (Kshs 300,000).**
- d. He shall attend court without fail at all times when required to do so and shall not act in any manner that may compromise the fair trial.**

Orders shall issue accordingly.

**Delivered, dated and signed this 8<sup>th</sup> day of October 2018.**

**S. N. Mutuku**

**Judge**