

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

H.C. CR. MURDER NO. 18 OF 2015

REPUBLIC.....PROSECUTOR

V E R S U S

KEN MUTUGI MUCHAGI.....1ST ACCUSED

ROSE MADRINE NJERI.....2ND ACCUSED

RULING

The application pending before court is dated 24/07/2018 seeking bail pending trial for the 2nd accused person. The accused was charged with murder contrary to Section 203 as read with Section 204 of the Penal Code.

He was arrested on 22/10/2015 and arraigned in court on 05/11/2015 and has been in custody ever since. That the Court had earlier indicated that he could only apply for bail after evidence of crucial witnesses has been taken and they have since testified. That eight witnesses have already testified and he is not likely to interfere with the remaining witnesses who are the doctor and the investigating officer.

The prosecution did not oppose the said application.

Since the application is unopposed, there is no compelling reasons for the accused not to be released. The offence charged is bailable. **Article 49(1)(h) of the Constitution** provides –

(h) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”

It is a right based on the principle that an accused person is presumed innocent until proved guilty. The accused should therefore be granted bail as he has constitutional right to bail. The co-accused was released on bail. I order that accused be released on a bond of Kshs 5 million plus two sureties of Kshs 2 million each to appear in court whenever he is required.

Dated at Kerugoya this 8th day of November 2018.

L. W. GITARI

JUDGE