



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
HIGH COURT CRIMINAL CASE NO. 9 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

FATMA MOHAMMED OKOTH.....ACCUSED

RULING

1. The accused **FATMA MOHAMMED OKOTH** is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the Penal Code the particulars of which were that on 5th February, 2017 at about 8.30 p.m. at Golden gate at South B in Industrial Area within Nairobi County murdered **JOHN FLUGENCE MWAKIDUA**. She denied the charges and by an application dated 20th February, 2017 sought to be released on bail/bond pending trial under the provisions of Article 49(1) (h) of the Constitution of Kenya.
2. When the said application came up for hearing before me, the prosecution indicated that they did not object to the accused being released on bond save that they sought for strict bond terms.
3. There being no compelling reasons advanced by the State and in compliance with Bond and Bail Policy Guidelines and Victims Protection Act 2014 the court ordered for pre-bail report which has now been submitted in which under the victim impact statement it was stated that the deceased was his mother's main project training for his private, commercial pilot and instructors licence and was therefore opposed to the accused being released on bail since the accused knows probable witnesses in the case some of whom were her friends and was likely to interfere with them.
4. I have however noted that those probable witnesses are not mentioned neither has the nature of likely interference been indicated in the report. It has however been stated that the accused person's safety could be compromised as some of the deceased's former friends are still bitter over his death but it must be pointed out that at this stage the accused is considered innocent until proved guilty and her safety and security is guaranteed in law.
5. I have also taken note of the fact that the accused is still a young lady who was allegedly engaged and cohabited with the deceased as at the time of the alleged commission of the offence and had allegedly sustained injuries on her neck and abdomen at the time of the incidence in addition to being asthmatic.
6. There being no compelling reason advanced by the prosecution and being alive of the rights of the victim under the Victim Protection Act which I have taken into account herein above, I would allow the application herein and order that the accused be released on bond on the following terms noting that she

faces a charge of murder wherein a person lost his life and there might be temptation to abscond from the jurisdiction of this Honourable Court:

a) Bond of Kshs.500,000/- with two sureties of similar amount.

b) In the alternative to (a) above the accused may post bond of Kshs.500,000/- together with cash bail of Kshs.200,000/-.

c) The accused shall not make any contact with the intended prosecution witnesses in any manner whatsoever during the period of her trial.

d) The accused shall attend for mention before the Deputy Registrar of this court once after every 90 days to confirm her presence and safety during the period of trial at dates to be set by the said Deputy Registrar while approving sureties herein.

DATED, SIGNED and DELIVERED at Nairobi this 6th day of April, 2017.

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J. WAKIAGA

JUDGE

In the presence of:-

Mrs. Kinoti for the State

Mr. Chacha Mwita for the Accused

Accused present

Tabitha court clerk