

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CR CASE NO. 1 OF 2013

REPUBLIC.....PROSECUTOR

VS

AGNES KARWIRWA IKUNYUAACCUSED

RULING

Before me is an application for bail dated 16/11/2015 in which **Agnes Karwirwa** seeks to be released on bail pending trial. The application is supported by her own affidavit in which she depones that she has a Constitutional right to bail unless there are compelling reasons to deny her bail; that she is deemed to be innocent till proved otherwise and that she is ready to comply with any conditions that the court may impose and will attend all court sessions as will be required of her. She denied that she is a flight risk.

The application was opposed. A replying affidavit was sworn by the deceased's mother Janet Karambu who depones that while accused was in custody at Maua, accused wrote to her a letter threatening to kill her and she made a report vide OB 30/14/08/2014; that she lives in constant fear of the accused and therefore opposed the application to release accused on bond. The second replying affidavit was sworn by PC Robert Chesire the Investigation Officer, who deponed that accused has no fixed abode and hence a flight risk and that while she was at Maua Police Station, accused wrote a letter to the deceased's mother threatening her. In addition, this court called for a Pre-bail report in respect of accused.

Although the accused has a right to bail, the said right is not absolute. Bail will be denied if the court finds that there are compelling reasons to deny the same. The primary consideration in such an application is whether the accused will turn up for the trial. Other considerations are whether accused will interfere with witnesses, her past character or antecedents; and whether her security will be guaranteed if released.

Although the deceased's mother swore an affidavit that she was threatened through a letter and a report made at the police station, the court is surprised that a copy of the said letter containing threats was not exhibited.

The above notwithstanding, the report by the Probation Officer is very negative. The social enquiry revealed that accused is a very confrontational person and difficult to relate with others even in prison where she is held; that she reacted in a very hostile manner towards the Probation Officer who went to make enquiries indicating that she was not keen to be released on bond anyway. A further observation is that though her parents have a title deed, they did not seem keen to stand surety for her and it seems that accused will be a flight risk if released.

Having considered accused's negative attitude and anti-social attitude, and the fact that her own parents are not even keen on offering any security for her, this court is of the view that she might be a flight risk.

For the above reasons, the court declines to grant accused's application for bond and she will remain in remand pending trial.

DATED, SIGNED AND DELIVERED THIS 9TH DAY OF FEBRUARY, 2016.

R.P.V. WENDOH

JUDGE

9/2/1016

PRESENT

Mr. Kariuki for State

Peninah/Ibrahim, Court Assistants

Mr. Muriuki Holding Brief for Mr. Mutuma for Accused

Accused, Present