



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
HIGH COURT CRIMINAL CASE NO 17 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

RAJAB KIPKOGEI KORIR.....ACCUSED

RULING

1. By a Notice of Motion dated 24/2/2016 the applicant moved this court under the provisions of Article 49(1)(h) of the Constitution of Kenya 2010 and Section 66 of Criminal Procedure Code to be released on bail pending trial which application was supported by the annexed affidavit sworn by the applicant on the same date in which it was deponed that he is currently attached to Nangili patrol base and a resident of UASIN GISHU County.
2. It was deponed further that when he was ordered in **Misc. Criminal Application No. 36 of 2016** to present himself before Central police station on 8/2/2016; He did comply with the said court order and presented himself to the said police station and subsequently appeared in court for the purposes of taking plea herein.
3. It was further stated that the applicant is not in good health having been operated on in October, 2015 which medical condition was supported by the attached medical records which I have had the advantage of perusing.
4. When this matter came up before Justice Lesiit for plea taking, the state through Mr. Kemo indicated that they shall not be opposing the application by the applicant to be granted bail and the Judge ordered for social inquiry report which has now been filed before me and in which apart from the reservations by the sister of the deceased against the accused person being released on bond has recommended that based on the medical condition of the accused the same be released on bond.
5. Bond is now a constitutional right of every accused person under Article 49 (1) (h) which can only be denied when there are compelling reasons to do so. In this matter the State has not offered any compelling reasons before court having conceded to the application.
6. I have looked at the pre-bail report and noted that the accused person has since been transferred from Makongeni Police station and will therefore not be in opposition to be in contact with the prosecution witnesses.
7. The accused who is at the stage presumed to be innocent is further suffering from a medical condition which cannot be managed at the remand prison and should the same be denied bond at this stage shall

have been denied his constitutional right to health under **Article 43(1) (a)** to the highest attainable standard of health which include the right to health care services.

8. I would therefore allow the application herein and noting the nature of the offence the accused is charged with, order that he be released on bond on the following terms:-

- a. Bond of Kshs.1,000,000/- with two sureties of similar amount.
- b. In the alternative cash bail of Kshs.500,000/- together with bond of Kshs.500,000/- with one surety.
- c. During the period of this trial the accused person shall not be in contact with any of the prosecution witnesses whose witness statements have been given to the accused and shall not go to Makongeni Police Station or be in touch with any of the police officers at that station in any manner whatsoever.

DATED, DELIVERED and SIGNED at Nairobi this 3rd day of March, 2016.

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J. WAKIAGA

JUDGE

In the presence of

Mr. Mwenda for the state

Mr. Komen for the accused

Accused present

Tabitha court clerk