



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NANYUKI

HCR.C. NO. 7 OF 2015

REPUBLIC APPLICANT

-VERSUS—

JOHN MAINA WANGARIACCUSED

RULING

1. JOHN MAINA WANGARI is accused of the offence of murder **Contrary to Section 203 as read with Section 204 of the Penal Code**. He pleaded not guilty to that offence and pending his trial he seeks that he be released on bail.

2. The state, through the Prosecuting Counsel Miss Kinyanjui, has opposed accused's application to bail pending trial.

3. The state through the affidavit sworn by the investigating officer, of this case, opposed the application for bail on the grounds that:

(a) the accused had evaded his arrest for this offence;

(b) The accused may abscond if released on bail;

(c) The investigations are still going on; and

(d) the accused may interfere with the prosecution's witnesses.

4. The court ordered for a pre-bail probation report to be prepared on the accused. The probation report indicates that the accused has from time to time moved out of his parent's home in search of casual work. He has, however, no history of criminal activity. The conclusion of that Probation report is of interest as far as the application before this court is concerned and I will therefore reproduce it thus:

“During my interview with the accused he was not straight forward and withheld critical information. He only gave it as an afterthought. The brother who came on behalf of the family was also quite reserved in the manner in which he disclosed information about the accused person. Both the community and the victim's family are not ready for the offender despite the goodwill of his family.

5. In the case **UGANDA (DPP) – V- COL (RTD) DR. KIIZA BESIGYE** a case that was cited in **REPUBLIC V- JOSEPH WAMBUA MUTUNGA & 3 OTHERS [2010]eKLR** the court stated:

“Where there is a substantial likelihood of the applicant failing to surrender or turn up for trial, bail may only be granted for less serious offences. The court must weigh the gravity of the offence and all the other factors of the case against the likelihood of the applicant absconding.”

6. The latter part of that quote is relevant to this case. The accused can be described as having no fixed place of abode. He, as can be seen above, failed to disclose material particulars to the Probation Officer. In that regard I find that the accused who is facing a serious charge is likely to abscond trial and accordingly there is compelling reason to deny him bail pending trial. His application for bail is dismissed.

Dated and Delivered at Nanyuki this 14th April, 2016

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Court Assistant – Njue

For state

For Appellant

Appellant

COURT

Ruling delivered in open court

MARY KASANGO

JUDGE