



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NANYUKI

HCR.C. NO. 5 OF 2016

REPUBLIC APPLICANT

-VERSUS—

PETER MAINA KARIUKIACCUSED

RULING

1. PETER MAINA KARIUKI the accused is facing a charge of murder **Contrary to Section 203 as read with Section 204 of the Penal Code**. The accused pleaded not guilty and is awaiting trial. He has applied for bail pending his trial.
2. The application for bail was not opposed by the state. The state, represented by prosecuting Counsel Miss Kinyanjui submitted that if bail would be granted the court should set reasonable terms which would ensure that the accused does attend trial until the conclusion of this case.
3. I have considered the probation pre-bail report. In that report it is stated that the accused family, the deceased's family and the community are willing to receive the accused into the community if released on bail.
4. The accused is a father of four children. He is described by those who were interviewed by the Probation Officer and also by the local Assistant Chief as a Law abiding citizen who relates well with members of the community. He cultivates subsistence crops at his piece of land as a means of livelihood.
5. In Article 49 (1) (h) of the Constitution it is provided an arrested person shall *"be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released."*
6. In considering that provision I am also guided by the case **FADWECK MVAHE – VS- THE REPUBLIC MSCA CRIMINAL APPEAL No. 25 of 2005**, which case was cited in Republic –v-JOSEPH WAMBUA MUTUNGA & 3 OTHERS [2010] eKLR as follows:

"...in considering the issue of the interest of the justice the paramount issues the court will consider include the likelihood of the accused attending his trial, the risk that if he is released on bail the accused person may interfere with the prosecution witnesses or tamper with the evidence, the likelihood of his committing another offence or other offences and also the risk to the accused person, if granted bail and he returns to his village where the deceased's relative

may harm him. In considering these issues the court may take into account among other things, such factors as the gravity of the offence , the punishment likely to be imposed and indeed ... the accused is a sickly person.”

7. I am also guided by the principle which clearly comes out of Article 49(1) (h) that an accused person, unless there are compelling reasons, should stay out of jail until a trial has found him or her guilty.
8. Bearing the above in mind and because there are no compelling reasons to deny accused bail I grant the following orders:
 - a. PETER MAINA KARIUKI is granted bail pending trial on his own personal bond of Kshs. 500,000/= with two sureties of similar amount.
 - b. The said PETER MAINA KARIUKI shall not without the leave of this court during the pendency of this case leave the jurisdiction of this court.

Dated and Delivered at Nanyuki this 14thApril, 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