



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERUGOYA

CRIMINAL MURDER CASE NO. 2 OF 2016

REPUBLIC.....PROSECUTOR

-VERSUS-

PAULINE WAWIRA MUCHIRA.....ACCUSED

RULING

1. **Pauline Wawira Muchira**, the applicant is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the offence as per the information presented to court is that on the night of 27th January, 2016 within Kerugoya Township, Kirinyaga County, she unlawfully murdered Joseph Abonyo Marambah. She denied the offence on 8th February, 2016 when the plea was taken and the trial was scheduled for 29th June, 2016. She has now moved this Court through a Notice of Motion dated 17th February, 2016 for bond/bail pending the hearing and determination of this case.

2. The grounds upon which the application is made are as follows:

- a. That the applicant is entitled to bail under Article 49 (1) (h) of the Constitution.*
- b. That the applicant has a permanent home within the jurisdiction of this court and will not abscond.*
- c. That the applicant will not interfere in any way with the investigations of the case.*
- d. That there are no special or peculiar circumstances that will bar the accused from being released on bond pending trial.*

3. The application was supported by the affidavit of the applicant and the oral submission made through her learned counsel Mr. Maina Kagio. It was submitted that under the law the accused person was entitled to bond unless there are compelling reasons. It was further submitted that the office of the Director of Public Prosecutions for the Respondent was served with the application and offered no reason to deny the applicant bail. Mr. Maina further relied on the probation officer's report which he submitted was favourable to the application.

4. The Respondent through Mr. Sitati told this Court that they were not opposed to the application but urged this Court to give stringent terms as the offence facing the applicant was serious.

5. I have considered the application and the submissions made. Right to bail is imbedded in our Constitution as correctly put by the applicant. Under **Article 49(1) (h)** of the Constitution an accused person has a right to be released on bond or bail on reasonable terms pending trial unless there are compelling reasons to deny him/her of the right. As indicated above the State or the Respondent has not opposed the application for bond and having offered no reason to deny the applicant herein her right to bail, this Court finds no reason to deny her the right. The law recognizes her right to presumption of innocence until contrary is proved. This Court finds merit in the application dated 17th February, 2016. The same is allowed. The accused person may be released on her own bond of Kshs.500,000/= with a surety of a similar amount. She is required to strictly attend court whenever required and not to attempt any contacts or interference with the prosecution witnesses in this case.

Dated and delivered at Kerugoya this 4th day of May, 2016.

R. K. LIMO

JUDGE

4.5.2016

Before Hon. Justice R. Limo

State Counsel Omayo

Court Assistant Willy Mwangi

Accused present

Interpretation English-Kiswahili

Nduku for Maina for accused present

Omayo for State present

Ruling signed, dated and delivered in the open court in the presence of Nduku holding brief for Maina for the accused and Mr. Omayo for the State.

R. K. LIMO

JUDGE

4.5.2016