



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CRIMINAL CASE NO. 20 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

ISMAEL MUSA MURERWA.....ACCUSED

RULING

Ismael Musa Murerwa alias **Kamlesh** is charged with the offence of murder contrary to **Section 203 as read with Section 204 of the Penal Code**.

He has filed the Notice of Motion dated 20/5/2012 seeking to be released on bond pending the trial. In his supporting affidavit, he depones that he is presumed innocent till proven guilty; that he will attend court as will be expected of him; that he is not a flight risk and that there are no compelling reasons to deny him bond.

Two affidavits were filed by the Investigations Officer Cpl. Benjamin Kiswili and another by Edward Maneno Murage in opposing the application. The Investigations Officer deponed that the applicant is likely to interfere with witnesses the key one being his 11 year old daughter; that accused is facing other criminal cases in CRC 319/2013 – offence of house breaking and stealing contrary to Section 306 of the Penal Code which was for hearing on 14/7/2016 and CRC 1655/2013, offence of shop breaking and stealing contrary to Section 306 of the PC.

Edward Maneno Murage deponed he is the father of the deceased; that he fears that if accused is released on bond, his granddaughter and son who are key witnesses will be in danger.

Mr. Mulochi urged that the multiplicity of suits against the accused make him flight risk.

The primary consideration in an application for bond is whether the accused will turn up for his trial. Other considerations are his character and antecedents, whether he will interfere with witnesses and whether his security is guaranteed if released.

The Investigations Officer has deponed that accused faces other criminal charges in CRC 319/2013 and CRC 1655/2013 which are still ongoing and hence a flight risk. He must have been out on bond with said cases. The applicant did not deny that the cases are ongoing. As earlier noted, the court must consider accused's character. Even if the cases are yet to be concluded, the court cannot lose sight of their existence and the fact that there would be a tendency to flee in view of this very serious charge he now faces. Besides, this court called for a pre-bail report which I have considered. His character is depicted in a very negative way by both the community and the administration who are opposed to applicant's release on bond.

I have also considered the affidavit by the father of deceased whose concern was also captured in the pre-bail report that accused is likely to interfere with the key witness who is his daughter aged 11 years.

Having considered the affidavits and pre-bail report, I am persuaded that accused is likely to interfere with the key witness, his character is questioned and the pending cases make him a flight risk. These are compelling reasons sufficient to deny accused bond. I decline to grant the application. Accused will remain in remand pending his trial.

DATED, SIGNED AND DELIVERED THIS 7TH DAY OF SEPTEMBER, 2016.

R.P.V. WENDOH

JUDGE

7/9/2016

PRESENT

Mr. Mulochi for State

Mr. Muthomi for Accused

Ibrahim/Peninah, Court Assistant

Present, Accused