



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL CASE NO. 12 OF 2016

REPUBLIC PROSECUTOR

VERSUS

JANET MWARI M'NGARUTHI ACCUSED

RULING

1. The accused **JANET MWARI M'NGARUTHI** is awaiting trial for a **charge of murder contrary to section 203 as read with section 204 of the Penal Code**. She has now sought before this court for bail pending trial.

2. To assist this court determine the application for bail pending trial the court requested for pre-bail probation report. That report is now before the court. The report described the accused as a person of good character with no previous convictions. However, the accused mother who was interviewed by the probation officer stated that the accused is an alcoholic. She however said that the accused does not abuse any other substance. The accused family is otherwise very favourable to her being released on bail pending trial. Her mother and brothers have undertaken to meet the bond/bail terms. The probation report is indeed very favourable to the accused being granted bail.

3. The Principal Prosecuting Counsel Mr Tanui did not oppose the application save that he requested that the court will grant reasonable terms of bail considering that the accused is facing a charge of murder.

4. **Article 49(1)(h)** provides that an arrested person has the right to be released on bail on reasonable conditions pending trial unless there are compelling reasons not to be released. **Justice Stella Mutuku** in the case of **REPUBLIC vs MOHAMED HAGAR ABDIRAHIM & ANOTHER (2012) eKLR** considered the meaning of compelling reasons and formulated the following definition:-

“A compelling reason would be such a reason that is forcefully convincing to persuade this court to believe that something is true.”

5. Bearing that definition in mind, I find that this is a case where there is no compelling reason to deny the accused bail pending trial. In that view I grant **Janet Mwari M'ngaruthi** personal bond of **Kshs.500,000** with **two sureties** of similar amount.

6. It is so ordered.

DATED AND DELIVERED THIS 9th DAY OF NOVEMBER 2016.

MARY KASANGO

JUDGE

CORAM:

Before Justice Mary Kasango

Court Assistant – Njue

Accused: Janet Mwari M'Ngaruthi

For the State:

COURT

Ruling delivered in open court.

MARY KASANGO

JUDGE