



REPUBLIC OF KENYA

IN THE HIGH COURT OF MERU

HC CR NO. 45 OF 2013

REPUBLIC.....RESPONDENT

VRS

HENRY KIRIMI KIMBO.....ACCUSED

RULING

The applicant is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. By the application dated 27th January, 2015, he seeks to be released on bond pending hearing and determination of the case. The grounds are outlined in his supporting affidavit. He deposed that the offence with which he is charged is bailable; that he is presumed innocent till proved otherwise; that he does not know of any compelling reason that would warrant the court denying to grant him bond because he is a Kenyan citizen with a permanent residence and is not a flight risk.

The application was opposed and a replying affidavit was filed by PC Moses Maina of Chuka Police Station who deposed that the accused murdered his own father; that the witnesses are close family members i.e. cousins, sister in-law and that if released, he is likely to interfere with them and defeat the cause of justice. He urged that the right to bail is not absolute if there are compelling reasons to deny the bond.

I have considered the application, the affidavits, submissions of counsel and the Pre-Bail Report prepared by the Probation Officer. Though bail is a constitutional right, it is not absolute because the court will not grant it if there are compelling reasons to deny the accused bond. Before grant of bond the court takes it consideration the following;

- 1.That the accused will turn up for his trial which is the primary consideration;
- 2.That the accused will not interfere with witnesses;
- 3.The previous character and antecedents of accused;
- 4.The security of the accused;
- 5.The gravity of the offence and severity of the sentence;

It seems that there is no objection from the deceased's family for the release of accused on bond. However, the Probation Officer did not go into details about the brother who was objected to accused's release.

The respondent's objection is based on the fact that the witnesses are close relatives of the accused and he

is likely to interfere with them. That fact has not been denied nor did the Pre- Bail Report address it. The witnesses are close relatives of accused whom he can easily influence once released.

That being the position, in my view, there is a compelling reason to deny the accused bond because it is very likely that he will interfere with the said witnesses. For that reason alone, I decline to grant accused bond. He will therefore remain in remand till the hearing a determination of this case.

DATED SIGNED AND DELIVERED THIS 4TH MAY, 2015.

R. V. P. WENDOH

JUDGE

Present:

Mr. Musyoka for the State

Mr. Kiogora for Accused

Faith, Court Assistant

Accused, Present