



REPUBLIC OF KENYA

IN HIGH COURT OF KENYA AT MERU

HCR 23 OF 2013

REPUBLIC.....PROSECUTOR

VRS

LINUS KINOTI MARETE ALIAS MAINA.....ACCUSED

RULING

LINUS KINOTI MARETE faces a charge of murder contrary to section 203 as read with section 204 of the Penal Code. By the application dated 6th November, 2014, he seeks to be admitted to bail pending the hearing and determination of the case. He swore an affidavit in support of the application in which he deponed that he has a constitutional right to be released on bond on reasonable terms; that he is presumed innocent till proved guilty and there are no compelling reasons why he should not be released on bond. He stated that he is ready to comply with any terms that the court may impose.

The application was opposed by the State. Corporal John Silunda, the investigating officer, swore an affidavit in reply, in which he deponed that the prosecution witnesses hail from the same area as accused, and he is likely to interfere with them; that the family members of accused's wife whom he murdered are likely to take revenge and lynch the accused and his life is therefore in danger.

The court called for a Pre- Bail Report which was filed by Stephen Katuumo of South Imenti Office. I have considered the affidavits and the contents of the Pre- Bail Report. In an application for bond the court has to consider the following;

1. That accused will attend court if released on bond and this is the primary consideration;
2. That the accused will not interfere with witnesses;
3. The accused's antecedents and characters;
4. The security of accused;
5. The gravity of the offence and severity of the sentence;

Although the investigating officer deponed that the witnesses all come for the same area as accused and he is likely to interfere with them, there is no evidence that accused will have influence over them. They are not his close relatives.

Accused is said to have a permanent residence with a family and is said to relate well with the community. The Pre-Bail Report indicates that the deceased and relatives are in good terms with accused's family contrary to what the investigating officer deponed to. There is no evidence that there is likelihood of revenge against accused and accused's security is not therefore threatened.

On a careful consideration, it seems there are no known compelling reason to deny accused bond. He is also said to suffer from HIV and that would be a good ground to have him released on bond in order for

him to access medicine easily. In the end, I allow the application and grant accused bond on the following terms;

1. Accused may be released on bond of Ksh 300,000/= with one surety of like sum;
2. Accused to be of good conduct when out of bond;
3. Accused to attend court as will be required of him.

In default of any of the above terms, bond will be cancelled.

DATED SIGNED AND DELIVERED THIS 4TH MAY, 2015.

R. V. P. WENDOH

JUDGE

Present:

Mr. Mulochi for the State

Mr. Kiogora for Applicant

Faith, Court Assistant

Accused, Present