

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA T MURANG'A

CRIMINAL CASE NO 22 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

EDWIN MWANGI NDUNG'U..... ACCUSED

RULING

1. The accused herein, **Edwin Mwangi Ndung'u**, is charged with **murder** contrary to **section 203** as read with **section 204** of the *Penal Code*. It is alleged in the information dated 04/09/2014 that on 01/09/2014 at Mitanduguini village of Gatanga Sub-county within Murang'a County he murdered one **Serah Wambui Njoroge**. He pleaded not guilty on 06/10/2014. His trial was set for 28/01/2015 but could not commence.

2. The Accused had in the meantime applied by notice of motion dated 13/10/2014 to be admitted to bail pending his trial. That application is the subject of this ruling. The Republic has opposed the application by a replying affidavit filed on 06/11/2014. The ground for objection is that if the Accused is released on bail he may be harmed by the Deceased's relatives and the local community as they are "still furious" with him. It is pointed out that he was almost lynched by a mob after the offence was committed and had to be rescued by the police.

3. Bail is now a constitutional right for all criminal offences and will be denied only for compelling reason. Also by constitutional edict, any condition imposed for such bail must be reasonable. See **Article 49(1) (h)** of the *Constitution of Kenya, 2010*.

4. No doubt the Accused's safety is important; but he sought bail himself, and will be aware of any danger to himself should he go anywhere near the Deceased's family members. He must look out for his own safety. But his safety cannot, in the circumstances of this case, be a compelling reason to deny him bail that he has himself sought.

5. In the result I will allow the application. The Accused shall be admitted to bail upon his own cognizance in the sum of KShs 300,00/00 plus one surety of like sum. It is so ordered.

DATED, SIGNED AT MURANG'A THIS 16TH DAY OF JULY 2015

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 17TH DAY OF JULY 2015