



REPUBLIC OF KENYA

IN THE HIGH COURT OF MERU

HC CR NO. 31 OF 2015

REPUBLIC.....PROSECUTOR

VRS

EMMANUEL JUMA OTIENO.....ACCUSED

RULING

Emmanuel Juma Otieno faces a charge of murder contrary to Section 203 as read with Section 204 of the PC.

The accused has filed an application dated 23/4/2015 seeking to be released on bond pending hearing of this case. The application is supported by an affidavit in which he depones that he is a permanent resident of Meru, where he is settled with his family; that he will attend court as will be required of him.

In opposing the application, CPL Richard Chemwon swore a replying affidavit in which he deponed that the accused is likely to interfere with witnesses who are his workmates; that the accused is a flight risk having gone underground from 28/2/2015 when offence took place up to 30/3/2015 when he was arrested.

I have considered the affidavits and submissions. The court also called for a pre-bail report which has been availed.

The right to bail under Article 49 (1) (h) is not absolute because the court will deny an accused bail if there are compelling reasons to do so. The court generally considers whether the accused will show up for his trial; whether he will interfere with witnesses; that he will be safe if released and the court takes into account his character and antecedents.

In the pre-bail report, persons interviewed have spoken well of the accused. Though he came all the way from Siaya County, he has related well with the people he lives within in Meru. His character is not questioned.

The Investigation Officer has deponed that the accused went underground for a month after the occurrence of the incident. Ideally the accused should have made a response to that allegation. However, the Investigation Officer did not state where accused fled to. It seems he never left this area. Having hailed from Siaya, if indeed he intended to flee, I believe he would have done so and in my view, the accused may not be a flight risk.

Having found as above, I am satisfied that there are no compelling reasons to deny accused bond. I will grant accused bond in the following terms:

1. He may be released on his own bond of KShs.400, 000/= plus one surety of like sum;

2. He must attend court as will be required of him;
3. He must be of good conduct during the pending of this case;
4. Must not interfere with witnesses.

DATED, SIGNED AND DELIVERED THIS 14TH DAY OF JULY, 2015

R.P.V. WENDOH

JUDGE

PRESENT

Mr. Musyoka for State

Mr. Igweta for Accused

Faith/Ibrahim, Court Assistants

Accused, Present