



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF MERU**

**HC CR NO. 60 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VRS**

**PETER KARUTI MUCHUI.....ACCUSED**

**RULING**

Peter Karuti Muchui is charged with the offence of murder contrary to Section 203 as read with Section 204 of the PC. He has filed an application seeking to be released on bond/bail pending the hearing of the case.

The application is supported by an affidavit sworn by the accused in which he deposed that he has been advised that he has a Constitutional right to bond and that he has a fixed abode in Kenya is not a flight risk and is willing to abide by all the conditions and terms that the court may impose.

The application was opposed and a replying affidavit was sworn by the Investigating Officer, PC Michael Muraya who deponed that the accused is likely to interfere with witnesses who are his mother, sister and the other witnesses also live within his locality; that the accused went into hiding after committing the offence in April till his arrest in August 2014, and he is therefore a flight risk. Mr. Mulochi submitted that apart from attacking the deceased who was his own father, the accused also attacked the mother.

I have considered the affidavits and rival arguments. Under Article 49 (1) (h), an accused person has a right to be released on bond on reasonable terms if there are no compelling reasons to deny him bond. Before granting bond, the court considers the following:

1. Whether the accused will turn up for the hearing of his case;
2. Whether the accused will interfere with witnesses;
3. The character and antecedents of the accused;
4. Whether the accused's security will be guaranteed if released.

The court called for a pre-bail report. The local administration did not seem to have a problem with accused being released on bond and there was no evidence of hostility from the family. However, in the replying affidavit, it was deponed that the accused went into hiding for 4 months after the deceased's death and the prosecution is apprehensive that he is a flight risk. The accused never replied to this allegation and that allegation has not been rebutted and I am therefore in agreement that having fled for 4 months after the offence, there is no guarantee that the accused will not flee again. I therefore find that

accused is a flight risk.

Secondly, the key witnesses are said to be the accused's own mother, sister and neighbour. There is high likelihood that if released, he will either influence the witnesses or his presence will intimidate them not to testify.

So, even if the pre-bail report is favourable, I am satisfied that there are compellable reasons to deny the accused bail. The application for bail is declined.

**DATED, SIGNED AND DELIVERED THIS 13<sup>TH</sup> DAY OF JULY, 2015.**

**R. P. V. WENDOH**

**JUDGE**

**PRESENT**

Mr. Mungai for State

Miss Nelima for Accused

Faith/Ibrahim, Court Assistants

Accused, Present