



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.72 OF 2013

REPUBLIC.....RESPONDENT

VERSUS

JANE MUTHONI IRUNGU.....APPLICANT

RULING

The accused, **Jane Muthoni Irungu** is charged with the murder of Gladys Njeri. The offence was allegedly committed on 15th June 2013 at Sachangwan Village, Nakuru County. The accused now seeks to be released on bail pending trial. By notice of motion dated 29th August 2013 she states that the offence with which he is charged is bailable, under **Article 49 (i) (h) of the Constitution**; that she has a constitutional right to be presumed innocent until proved guilty; that she will attend her trial and that she was in need of medical attention owing to her diabetic and hypertensive condition.

The stated through the replying affidavit of **Cpl. Cheramboss** (the Investigating Officer) and the submissions of **Mr. Konga** (the prosecuting counsel), opposed the application on the grounds that the applicant is accused of a grave offence of murder; that the applicant may interfere with and intimidate witnesses and may be a flight risk.

I have considered the application. Bail is a constitutional right provided by **Article 49 (i) h of the Constitution**. This right may however be curtailed by the court where there are compelling reasons. It is the state's duty to demonstrate to the court the existence of any compelling reasons, within the meaning of **Article 49(i) h**.

Having carefully considered the Replying Affidavit and the submissions of prosecuting counsel, I find that the State has not demonstrated the existence of compelling reasons to deny the applicant bail.

I allow the application and order that the accused

- i. Pay a cash bail of KShs.1,000,000/- or in the alternative execute a personal bond of KShs.1,000,000 with 2 sureties of like amount.
- ii. Report to the CID Nakuru once every 2 weeks until further orders of this court.
- iii. Shall not in any way either by self or proxy contact, communicate with, or in any manner whatsoever interfere with prosecution witnesses.
- iv. Attend monthly mentions before the Deputy Registrar of the court. The first of such mention shall be on 13th March, 2014.

Orders accordingly.

Ruling delivered, dated and signed at Nairobi this 11th day of February, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: Applicant

.....: For the applicant

.....: For the State/respondent