



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL CASE NO. 9 OF 2013

REPUBLICPROSECUTOR

VERSUS

HARUN MUREITHI GUCHU.....ACCUSED

RULING

1. The accused person is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code the particulars of which are that on the 16th day of March 2012 at Muthaiga estate in Nanyuki town within Laikipia County murdered CHARLES KIRAGU MICHAEL.
2. The accused pleaded not guilty to the charges and the issue before the court was whether the accused was entitled to be released on bond within the meaning of Article 49(h) of the Constitution.
3. It is now settled jurisprudence that all accused persons are entitled to a constitutional right to be released on bond pending trial unless there are compelling reasons to deny the same the said constitutional rights.
4. In opposing the release of the accused on bond the prosecution filed an affidavit sworn by PC WILSON MIBEI RONO the investigating officer in which it was deponed that all the witnesses in the case are related to the accused being the wife and daughter respectively the accused had been charged with the murder of his daughter.
5. It was deponed that one of the witnesses NANCY WANJIRU is a minor aged 8 years old and therefore there is fear that there could be witness interference by the accused.
6. In support of the release of the accused Miss Mwai Advocate submitted that that the fear of witness interference were mere speculation and that there was no proof of the alleged interference and that the court can not ascertain what he is likely to do when released.
7. I have looked at the affidavit in opposition of the accused being released on bond and noted that the key witnesses are the accused wife and child and that if the accused is released on bond he will have to stay with them in the same house and find that the witness being related to the accused there is real likelihood of interference and intimidation as was held in the case of R V JOSEPH WAMBUA MUTUGA & 3 OTHERS (2010) eKLR.
8. I therefore find that there are compelling reasons to deny the accused bond at this stage. This application shall be reviewed once the two named witnesses testify. The accused shall therefore be denied bond.

Dated, signed and delivered a Nyeri this 16th day of May 2014.

J. WAKIAGA

JUDGE

16/5/14

Coram: Before Justice J. Wakiaga

Court clerk - Ndungu

Miss Mwai for the accused.

Mr. Njue for the DPP.

**Court: The ruling is read in open court in the presence of the accused Miss Mwai and Mr. Njue.
Mention on 22nd September 2014 to get hearing date.**

J. WAKIAGA

JUDGE

16/5/2014