



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL CASE NO. 9 OF 2014

REPUBLIC .....PROSECUTOR

VERSUS

GEOFREY MURIITHI KINYUA.....ACCUSED

RULING

1. The accused is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code the particulars of which were that on 15th October 2012 at Karindundu Karatina Mathira East District Nyeri County murdered LYDIA NJERI MWANGI.
2. In opposing this application to be released on bond the state has filed an affidavit by PC MARANGU MPIUKI in which he has stated that the accused is charged with the murder of his wife by strangling her using a piece of cloth and that after the incident the accused locked the house and fled the scene of crime and disappeared only to be arrested in Nakuru on 18th March 2014 almost two years later.
3. It was therefore submitted that the accused is a flight risk who should be denied bail.
4. Miss Mwai for the accused submitted that the reasons given by the state does not mean that the accused should be denied bond.
5. The constitution of Kenya 2010 Article 491 (h) provides that an accused person has a right to be released on bond or bail on reasonable condition unless there are compelling reasons not to release the same.
6. Courts have therefore developed various guidelines to determine what amounts to compelling reasons and in this Ochieng J in the case of R v JOSEPH WAMBUA MUTUNGA & 3 OTHERS HIGH COURT AT NAIROBI CRIMINAL CASE NO. 23 OF 2008 quoted with approval SUPREME COURT OF APPEAL MALAWI IN FEDLECK MUAHE v THE REPUBLIC MISCA CRIMINAL APPEAL NO. 25/2005 as follows

*“.... in considering the issue of the interest of justice (equivalent to our compelling reasons) the paramount issue the court shall consider include the likelihood of the accused attending his trial. The risk that if he is released on bail the accused person may interfere with the prosecution witnesses or tamper with evidence, the likelihood of his committing another offence or other offences, and also the risk to the accused person if granted bail and he returns to his village where the deceased relatives may harm him. In considering these issues the court may take into account, among other things such facts as the gravity of the offence, the punishment likely to be imposed and indeed as was conceded by the court the LUNGAZI CASE, that the accused is a sickly person.”*

7. Though not excluding applying these to the case before me and taking into account that though not guilty at this stage, the accused person is accused of the murder of his wife and was arrested in Nakuru outside the jurisdiction of this court two years after the alleged commission of the offence, these are compelling reasons enough for this court to deny the accused bond at this stage.
8. I therefore decline to order the release of the accused person on bond at this stage. The accused shall be in custody pending final determination of the case but can renew the application for bond during the hearing.

Dated, signed and delivered at Nyeri this 6th day of June 2014.

**J. WAKIAGA**

**JUDGE**

Court: Ruling delivered in open court in the presence of the accused, Miss Mwai and Mr. Njue for the state. Mention on 14th October 2014.

**J. WAKIAGA**

**JUDGE**