

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 34 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

DOMINIC KIPKURUI SIGEI.....ACCUSED

RULING

1. The counsel for the accused applies for bond for the accused. This was an oral application. The accused herein, Dominic Kipkurui Sigei, is charged with murder contrary to S.203 as read with S.204 of the Penal Code. It is alleged that he murdered Chepkwony Arap Chelenent at Engosi village in Transmara West district within Narok County in the Republic of Kenya, jointly with others not before court. He denies the charge. He now wants this Honourable court to release him on bond pending the hearing and determination of his case.
2. This application is brought under article 49(1)(h) which article in our constitution makes the offence of murder bailable, unless there are compelling reasons not to admit accused to bail.
3. In this particular case, the state has filed an affidavit dated 27th May, 2014. In that affidavit, at para 4 thereof and 6 thereof, the state deposes that if released the accused faces a hostile and volatile ground where the accused's own life may be threatened. In the next parag, cited, the state deposes that there may be temptation by the accused to abscond if released or go into hiding if released.
4. However, the pre-bail assessment report talks a different story. The social report indicates that the home environment is but conducive to the granting of bail and relatives of the victim are willing to stand surety if granted bail.
5. The rights of the accused and the rights of victim are enshrined in the Constitution. The court has to balance the two rights and find middle ground. The middle ground here is for allowing bond for the accused.
6. Accordingly, I allow the application and order that the accused be released on his own personal bond of kshs. 1,000,000 with two sureties of similar amounts to be approved by the Deputy Registrar of this court.
7. Upon his release, the accused shall attend court for mention of his case once a month until the case is heard and determined. The first such mention shall be on 23rd November, 2014.

Ruling dated and delivered at Kisii this 3rd day of November, 2014.

C.B. NAGILLAH,

JUDGE.

In the presence of:-

Magara holding brief for Kaburi for the applicant.

Imbali for the respondent

Edwin Court Clerk.