



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL DIVISION

CRIMINAL CASE NO.108 OF 2014

EUNICE WAMBUI NJERI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The accused, **Eunice Wambui Njeri** is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that between the months of September 2014 to 30th October, 2014 at **Zimmerman Estate** in **Kasarani** within **Nairobi County**, murdered **Tamara Wanja Njeri**. She was arraigned in court on 24th November 2014. She denied the charge and was remanded in custody pending her trial which is scheduled to commence on 21st September, 2015. She now seeks to be released on bail pending trial.

In her application dated 17th December 2014 she states that the Constitution grants her the right to bail; that she has a right to be presumed innocent until proven guilty; that she is expectant; that she will not interfere with witnesses and that the prosecution shall not be prejudiced in any way by her release on bail. In her lengthy supporting affidavit she states that she has a minor child aged 2 and is expecting her second born and that she will not in any way interfere with prosecution witnesses.

During the hearing, **Mr. Kariuki** for the applicant reiterated the grounds on the application. He submitted that the accused was not a flight risk and prayed for lenient bond terms. On her part, **Ms. Matiru** for the State opposed the application. She submitted that there was overwhelming evidence against the accused. She urged the court to consider that some of the key prosecution witnesses were close relatives of the accused and that she may interfere with them.

I have considered the application. The constitutional basis of the application is not contested. The constitution entitles the accused to bail where there are no compelling reasons. In this case the applicant filed her application in court on 17th December, 2014 and simultaneously served the Office of the Director, Public Prosecutions. On 2nd February 2015 the court directed the Office of the Director Public Prosecutions to file a replying affidavit if it intended to oppose the application. It failed to do so by the scheduled hearing date and sought an adjournment which was granted to 2nd May, 2015. By that date however no replying affidavit had been filed. The learned prosecution counsel then elected to make oral submissions opposing the application.

It is my view, after considering the application and the record that the learned prosecution counsel's submissions was an afterthought and that the respondent had no serious opposition to the application. I am not persuaded that the

applicant's release will pose any serious risk to witnesses. The nature of the relationship between the accused and the witnesses has not even been demonstrated for the court to form an opinion on the possibility of interference.

In the result, I find no compelling reason to deny the applicant bail. She is released on condition that she shall:-

- i. Pay cash bail of KShs.500,000/- with one surety of similar amount; or in the alternative she shall execute a personal bond of Kshs.500,000/- with 2 sureties of Kshs.500,000/- each.
- ii. Attend court for the mention of her case before the Deputy Registrar monthly until the commencement of her trial.
- iii. Not interfere with prosecution witnesses in any manner whatsoever.

Orders accordingly.

Ruling delivered and dated at Nairobi this 21st day of April, 2015

R. LAGAT - KORIR

JUDGE

In the presence of:

-: Court clerk
-: Accused/Applicant
-: For State
-: For Accused/Applicant



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