



**Mutunga & 3 others v Republic (Criminal Case E023 of 2024)  
[2024] KEHC 16790 (KLR) (28 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 16790 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CRIMINAL CASE E023 OF 2024  
NIO ADAGI, J  
NOVEMBER 28, 2024**

**BETWEEN**

**JOHN NGILA MUTUNGA ..... 1<sup>ST</sup> APPLICANT  
EDWARD MULAA MBITHE ..... 2<sup>ND</sup> APPLICANT  
ALICE NDUKU MUENI ALIAS MUSUNGU ..... 3<sup>RD</sup> APPLICANT  
ANCET MWANZIA MUKEKA ALIAS KASUTA ..... 4<sup>TH</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicants/Accused Persons, John Ngila Mutunga, Edward Mulaa Mbithe, Alice Nduku Mueni Alias Musungu, Ancet Mwanzia Mukeka alias Kasuta are charged with the offence of Murder contrary to Section 203 as read with section 204 of the *Penal Code*. The particulars of the offence in are that the Applicants on 28th day of July 2024 at Kiaoni village in Kithimani Location, Yatta Sub- County within Machakos County, jointly with others not before court murdered Josephine Njeri Makau.
2. When they were arraigned before the court on 16th October 2024 for plea taking, they all denied the charges and their learned counsel Mr. Manyolo immediately made an oral application for them to be admitted to bail or bond on reasonable terms pending the hearing and determination of his case.
3. The application was not opposed by the State and the court ordered that the probation department prepares Pre-bail reports of all the Applicants.
4. The pre- bail reports for all the Applicants were filed in court on 31st October 2024. I have keenly considered the said reports as far are each of the Applicant’s introduction and source of information, family back ground, personal circumstances, previous bail/bond history, attitude towards bond, ability



to meet bond terms, Victim's circumstances, Community report and the conclusions by the Probation Officer.

5. I am able to gather that the Applicants save for Alice Nduku Mueni alias Musungu who hail from Ekalakala location, hail from the same locality/rural home which is in Kithimani Location with the nearest school being Kathianioni primary school.
6. None of the Applicants has a history of previous bail/bond. The reports show that all the Applicants are well known to the community which is not opposed to them being considered for bond. Their families describe them positively and are willing to secure bond for them respectively. The victim's family neither perceived the Applicants as a security threat nor did they express any hostility towards them.
7. Generally, all the Applicants were described positively, have fixed places of abode at their rural homes and are not flight risks. No concerns were raised regarding witness interference.
8. In conclusion, the reports recommend that the Applicants are suitable for admission to bond, however this recommendation is subject to the court's discretion.
9. Article 49(1) (h) of *the Constitution* of Kenya provides that an arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released. No compelling reasons have been shown in this case.
10. The purpose of a pre-bail report is intended to inform the court circumstances that relate to the offence and guide in determining whether to release an accused person on bond and under what terms.
11. There being no objection raised by the State on the application for bond and based on the positive pre-bail reports filed in this case, I see no reason to deny the Applicants bond. I proceed to release them on bond on conditions set out under final orders below.
12. Final Orders:
  - i. Each of the Applicants will be released upon signing bond of Kshs.500,000/= with a surety of similar amount which shall be approved by the Deputy Registrar of this Court.
  - ii. Once released, the Applicants shall attend the Deputy Registrar once every two months until further orders of this court and shall also attend the court on all hearing dates without fail.
  - iii. Failure to comply with the above conditions shall lead to cancellation of the bond for the non-compliant Applicant.

It is so ordered.

**RULING WRITTEN, DATED & SIGNED AT MACHAKOS THIS 28TH NOVEMBER 2024**

**NOEL I. ADAGI**

**JUDGE**

**DELIVERED VIRTUALLY ON TEAMS AT MACHAKOS THIS 28TH NOVEMBER 2024**

In the presence of :

..... for Appellant

..... for Respondent

..... Court Assistant

