



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Republic v Ochango (Criminal Case E014 of 2021)  
[2023] KEHC 26992 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 26992 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL CASE E014 OF 2021  
DR KAVEDZA, J  
DECEMBER 20, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOHN OCHANGO ..... ACCUSED**

**RULING**

1. The accused person, John Ochango, has through a Notice of Motion application dated February 24, 2023 applied for review of bond terms granted by this Court vide a ruling dated November 29, 2021. The accused is charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code* to which he pleaded not guilty.
2. This court in the said ruling dated November 29, 2021 ordered the accused to be released on bond on Kshs. 500,000 with one surety of like amount. The accused however by his application stated that he has been unable to meet the bond terms and that he wishes the same to be reviewed to a reasonable amount which he can afford. The accused further urged that he has a young family which is dependent on him for their daily upkeep and survival. The application is supported by an affidavit sworn by the accused in which he reiterates the said grounds.
3. I note that despite the court's direction on September 20, 2023 for the application be dispensed through written submissions, neither of the parties complied, nor did the State file a response to the application.
4. Nevertheless, the issue for determination is whether the court should grant the bond review orders sought.



## Analysis and determination

5. In presenting an application for review of bond terms, the accused person ought to show changed circumstances which would warrant the court to review the bond terms. In *Republic Vs. Francis Maina Wairimu* (2020) eKLR the court held that:

“In an application for review of the denial of bail the applicant is under a duty to convince the court that there had been change of circumstances from the time when he was denied bail to warrant the court reviewing its earlier orders.”

6. Similarly, in *Republic Vs Diana Suleiman Said & Another* (2014) eKLR it was held as follows:

“The changed circumstances test is one of a common sense that where the circumstances of the case are so altered that compelling reasons are disclosed for the refusal of bail or for review of terms thereof, the court as a court of justice must reserve for itself a power to revisit the issue in the interest of justice not only for the accused but also for the complainant and the society at large. In the same way that an unsuccessful applicant for bail may repeat his application if his circumstances changed in such a manner as to favour his release on bail, so may the prosecution urge that the situation has deteriorated to compel a reconsideration of bail granted to the accused.”

7. In the instant application, the applicant argued that he is unable to meet the bond terms of Kshs. 500,000 with one surety, as directed by this court in the ruling dated 29<sup>th</sup> November 2021. He maintains that he comes from a humble family but has managed to secure a relative who is willing to act as a surety if the court reviews his bond terms downwards. Additionally, he asserts that he is the sole breadwinner of his family, which continues to suffer due to his incarceration.
8. It is not in dispute that before delivering the ruling on November 29, 2021, this court called for a pre-bail report, which was duly considered and was found to be favourable. Since the court granted the applicant bond on November 29, 2021 he is yet to be released. The inference is that he has been able to raise the bond terms granted.
9. In the premises, I find that the application to review the bond terms is merited. In the end, the applicant's bond of Kshs. 500,000 is reviewed. The applicant is hereby admitted to a bond of Kshs. 300,000 with one surety of similar amount. The surety must be an immoveable property.

It is so ordered.

**RULING DATED AND DELIVERED VIRTUALLY THIS 20<sup>TH</sup> DAY OF DECEMBER, 2023.**

**D. KAVEDZA**

**JUDGE**

In the presence of :

Mr. Otieno for the state

