



**Republic v Mucee (Criminal Case E018 of 2023)
[2023] KEHC 27204 (KLR) (18 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27204 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE E018 OF 2023
EM MURIITHI, J
DECEMBER 18, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JAMES MPUNGU MUCEE ACCUSED

RULING

Applications

1. This is a ruling on an application by Notice for Motion dated 1/11/2023 made under Article 49(1) (h) of the Constitution for bail pending hearing and determination of the murder case herein.
2. The Applicant Counsel’s supporting affidavit sworn on 1/11/2023 urges the constitutional right to bail states that the applicant is a 63 year old with fixed abode; and is not a flight risk, pointing out that the presented himself at Kathwana Police station following the incident that resulted in the death of the deceased herein and that he has been willing to plead to a lesser charge of manslaughter.
3. The DPP opposes the bail application by an Affidavit filed by the Investigation Officer PC Mourice Okinda of 6/11/2023 urging that the accused had shot an arrow to the chest of a 12 year old who succumbed to her injuries and her grieving family might retaliate against the accused and or the accused might attack the deceased family and their witnesses some of who are minors and may be easily intimidated.
4. Upon considering the application, the court finds a compelling reason to deny bail to the accused in terms of Article 49 (1) (h) of the Constitution, in the likelihood of he accused interfering with the minor witnesses who, the court agrees, may easily be intimidated.
5. The court will balance the accused’s right to bail with the need to afford the prosecution a reasonable opportunity to discharge it constitutional mandate and present its case, whether of murder of



manslaughter after plea bargain, without interference by the accused with its minor witnesses, bearing in mind the impressionable nature of child witnesses. The accused's bail shall, therefore, be denied in the meantime pending the testimony of the minor witnesses.

Orders

6. Accordingly, for the reasons set out above, the court application for bail dated 1/11/2023 is declined.
 7. The accused may renew the application for bail at a later stage upon testimony of the minor witnesses.
- Order accordingly.

DATED AND DELIVERED ON THIS 18TH DAY OF DECEMBER, 2023.

EDWARD M. MURIITHI

JUDGE

Appearances:

Ms. Mbithe for the DPP.

Mr. Mark Muriithi for the Accused/Applicant.

