



REPUBLIC OF KENYA



**Republic v Mwangi & another (Criminal Case E054 of 2021)
[2022] KEHC 10232 (KLR) (30 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10232 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E054 OF 2021
RB NGETICH, J
JUNE 30, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPH NJOGU MWANGI 1ST ACCUSED

NAOMI MUKIRI PETER 2ND ACCUSED

RULING

1. The two accused were charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. Particulars are that on the 6th day of June, 2021 at Landless in Thika West Sub-County within Kiambu County they murdered David Oyetu Kamau. The accused persons are represented by Mr. Mwaura Kelvin Karuga and Mr. Kiunga.
2. The charge and its full particulars were read over to the accused persons on November 2, 2021 in the presence of their defence counsels Mr. Mwaura and Mr. Kiunga respectively. They denied the charge and plea of not guilty was entered for each accused person. Justice Kasango called for a pre-bail report on each accused. The reports were filed on December 7, 2021.
3. I have perused the two reports filed and in respect to the 1st Accused, the report is favourable. His family is willing to assist the accused attend court. The brother of the accused is willing to host him when released on bond. On the other hand, the victim's family fear the accused is likely to interfere with the witnesses.
4. In respect to the 2nd accused, I note that his family is not willing to bail him out. His sister stated that she is not in a position to ensure that accused attends court if released on bond. She is also not willing to house him either. The father of the 2nd accused indicated he has no security to deposit in court to guarantee the 2nd accused if released on bond. The family of the victim is apprehensive the accused



persons will interfere with the witnesses and they indicate that they have not healed from the grief of their loved one.

5. *The Constitution* of Kenya guarantees that every accused person is entitled to bail pending trial unless there are compelling reasons raised. The right to bail is not absolute and where there are compelling reasons the right may be restricted.
6. According to the pre-bail report, the family of the 1st accused person is willing to offer security for bond and is committed to ensuring that he attends court for trial. The 1st accused brother Joseph is willing to host him if released on bond.
7. On the other hand, family of the 2nd accused is not willing to offer security for bond nor commitment to ensure that he attends court when required. From the report she hails from Samburu which is far from the jurisdiction of this court and has no fixed abode within the geographical jurisdiction of this court. There is therefore no assurance that if released, the 2nd accused will attend court for hearing of this case to conclusion. In my view it will be unsafe to release her on bond.

Final Orders

1. The 1st accused may be released on a bond of Kshs. 500,000/= with a surety of a similar amount.
2. The 2nd Accused to remain in custody.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 30TH DAY OF JUNE, 2022.

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RACHEL NGETICH

JUDGE

In the Presence of

Kinyua – Court Assistant

Accused 1 – Present

Accused 2 – Present

