



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Murimi (Criminal Case E008 of 2022)
[2022] KEHC 12653 (KLR) (28 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 12653 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E008 OF 2022
MM KASANGO, J
JULY 28, 2022**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH KINYUA MURIMI ACCUSED

RULING

1. Joseph Kinyua Murimi is accused of the offence of murder contrary to Section 203 as read with section 204 of the *Penal Code*. He pleaded not guilty. His trial is yet to commence. He has applied to be released on bail/bond pending the determination of his trial.
2. The pre-bail report has informed this Court that the accused is a married man with three children, the youngest being 2 months old. The family owns its own business which the wife of the accused assists in its operations. The accused siblings and an uncle stated in that report that they are willing to ensure the accused attends court when required.
3. The pre-bail report indicated that victim's family is opposed to the granting of bail/bond on the basis that they fear the accused may interfere with witnesses for the prosecution. They adversely view the fact that the police did not charge the accused until one year after the commission of the offence.
4. The application for bail/bond was also very vigorously opposed by the counsels for the victim's family. The counsels stated that the accused was likely to interfere with the prosecution's witnesses if granted bail.
5. There was no affidavit, filed by the victim's family, setting out the reason why the victim's family hold the view that the accused was likely to interfere with prosecution's witnesses.
6. Article 49(1)(h) of *the Constitution* provides an arrested person or an accused shall be granted bail/bond unless there are compelling reasons not to grant. The victim's family failed to support their submissions



with affidavit evidence and I therefore find there is no compelling reason to deny accused bail. The victim's family should not view the denial of bail/bond as a means of punishing the accused. The accused is innocent until found guilty by a court of law. This was the principle the court relied on in the case *Republic vs. Fredrick Ole Leliman & 4 others* (2016) eKLR thus:-

“The question of bail is sometimes misunderstood. When a man is accused, he is nevertheless still presumed to be innocent and the object of keeping him in custody prior to trial is not on the theory that he is guilty but on the necessity of having him available for trial. It is proper that bail should be granted when the Judge is satisfied that the bail will ensure the accused appearing at his trial.”

7. This Court, in the absence of compelling reason not to release accused will accede to the application for bail/bond.

Disposition

8. I order Joseph Kinyua Murimi to be released from custody pending his trial, on his bond of Kshs.5,000,000 (Five Million) with one surety of similar amount.

RULING DATED AND DELIVERED AT KIAMBU THIS 28TH DAY OF JULY, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice

Accused :- Present

For accused : - Miss Mweni H/B Mr. Aluda

For Victim's Family: No appearance

For DPP :- Mr. Kasyoka

Ruling delivered virtually

MARY KASANGO

JUDGE

