



**Republic v Waithira (Criminal Case E053 of 2021)
[2022] KEHC 12373 (KLR) (28 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 12373 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E053 OF 2021
RB NGETICH, J
JULY 28, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

DANIEL WAINAINA WAITHIRA ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. Particulars are that on September 25, 2021 at around 2000hrs at Gikambura area in Kikuyu sub-County within Kiambu County murdered Michael Ndungu Murimi.
2. On February 3, 2022, the charge and its full particulars were read over to the accused. He denied the charges and a plea of not guilty was entered. Ms Ndungu for the accused applied to have the accused released on bail. The state counsel Mr Gacharia was not opposed to the accused being released on bail but urged the court to call for a pre-bail report.
3. The court called for a pre-bail report. The pre-bail report was filed on July 5, 2022. The accused pleads with the court to grant him affordable bail/bond due to their financial status. He states the family can afford a cash bail of Kshs 100,000/= the mother of the accused states that she is a casual labourer and is willing to assist the accused and ensure he attends court when required. She however stated that she has no financial ability to raise the cash bail but she can mobilize resources.
4. The victim's mother is opposed to the accused being granted bail. She states that the accused is known by the family of the victim and the family is bitter and still mourning the loss of their son.
5. From the probation report filed, there are no compelling reasons to deny the accused bail. The family of the accused have expressed willingness to mobilize resources to deposit as security for accused's release on bond and assist in ensuring he attends court.



6. Article 49 of the *Constitution* gives accused right to be released on bail pending trial unless there are compelling reasons. From prebail report, there are no compelling reasons to deny the accused bond pending trial.

7. Final Orders:-

The accused may be released on a bond of Ksh 500,000/= with one surety of a similar amount.

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

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RACHEL NGETICH

JUDGE

In the Presence of:

Kinyua – court clerk

Accused – Present

