



**Republic v Njoroge alias Jack (Criminal Case E007 of 2022)
[2022] KEHC 11247 (KLR) (27 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 11247 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E007 OF 2022
MM KASANGO, J
JULY 27, 2022**

BETWEEN

REPUBLIC PROSECUTOR

AND

JACKSON GACHECHE NJOROGE ALIAS JACK ACCUSED

RULING

1. Jackson Gacheche Njoroge, is awaiting his trial on the charge of murder. He pleaded not guilty. He has applied to be released on bail/bond pending his trial.
2. The prosecution did not oppose bail.
3. Article 49(1)(h) of the *Constitution* provides for an arrested or accused person to be released on bail/ bond unless there are compelling reasons not to be released. The prosecution not having opposed the release of the accused and the probation pre-bail report not having shown any compelling reason not to release accused as he seeks this Court will accede to his prayer.
4. What should exercise the mind of the court while determining an application for bail pending trial was discussed by the court in the case *Republic v Danford Kabage Mwangi* (2016) eKLR thus:- “There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the constitution and courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned.[6]

Granting bail entails the striking of a balance of proportionality in considering the rights of the applicant who is presumed innocent at this point on the one hand, and the public interest on the other. The cornerstone of the justice system is that no one will be punished



without the benefit of due process. Incarceration before trial, when the outcome of the case is yet to be determined, cuts against this principle. The need for bail is to assure that the accused person will appear for trial and not to corrupt the legal process by absconding. Anything more is excessive and punitive.

5. Having considered the accused's circumstances set out in the pre-bail report, I grant the following orders:-
- a. The accused Jackson Gachecha Njoroge shall be released on his own bond of Kshs.500,000 and one surety of similar amount.
 - b. The accused shall not interfere with the prosecution witnesses.
 - c. This case is hereby transferred to Kiambu High Court No. 2 and a mention date will be fixed before that court.

RULING DATED AND DELIVERED AT KIAMBU THIS 27TH DAY OF JULY, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice

Accused :- Jackson Gacheche Njoroge – Present

For accused : - Mr. Mulinge

For DPP :- Mr. Kasyoka

RULING delivered virtually.

MARY KASANGO

JUDGE

