



REPUBLIC OF KENYA



**Muhu v Republic (Criminal Case E013 of 2022)  
[2022] KEHC 13593 (KLR) (28 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13593 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CRIMINAL CASE E013 OF 2022  
GL NZIOKA, J  
SEPTEMBER 28, 2022**

**BETWEEN**

**JOHN KAHUHA MUHU ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant is charged with the offence of; murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the charge reads that, on the 15<sup>th</sup> day of May 2022, in Kenton village in Kinangop Sub-County, within Nyandarua County, murdered Stephen Njihia Mwaura.
2. The applicant took a plea of not guilty when the charges were read to him. He now seeks for bail or bond pending the hearing and determination of the case. He avers that, the pre-bail report filed by the Probation Department affirms that, he is suitable to be admitted to bond. That, his parents can meet the bond terms imposed and that, he is ready to relocate from the area where the offence occurred to Nairobi. Further his mobility is limited as he is walking with the aid of clutches and undergoing physiotherapy, as such he is not a flight risk.
3. The respondent did not oppose the application for the applicant to be released on bond. The learned State Counsel informed the court that, the investigating officer informed her that, there are no compelling reasons to necessitate objection to bond. However, the applicant should relocate from the place where the offence was committed and not initiate contact with witnesses and/or residents of that area. Further stringent bond terms be imposed.
4. I have considered the application in the light of the provisions of the law applicable and the materials placed before me and in particular the pre- bail report dated July 21, 2022, filed by Kamau Joel, the officer in charge of Probation and Aftercare Services at Naivasha and I note that, the applicant is a single person with no family or dependants children but has a permanent place of abode at Maguma area,



Nyandarua. He is said to be walking on clutches due to injuries sustained after the “deadly incident” that resulted to death of the victim, when he was attacked by a mob who brutally broke his two legs and occasioned him injuries all over his body. The report further indicates that, the community and in particular the area chief and “*nyumba kumi*” elder supports, the applicant’s release on bond. That he is not a flight risk.

5. However, the same report indicates that, the deceased and suspects have been neighbours for many years and currently there is high tension and animosity between them. That, there is need for the suspect to relocate to safer grounds upon release. Further, the relatives of the deceased are still bitter and in “one voice” opposed the release of the applicant on bail or bond.
6. Pursuant to the aforesaid I find that, the applicant is suitable for release on bail or bond, save that, it should be noted that, whatever bond terms the court will impose should ensure the fundamental aim of securing the applicant’s attendance to the trial so that, the victim’s family can experience justice through the due process of law.
7. In that regard, I order that, the applicant will be released on the following bond terms.
  1. Bond of Kenya shilling one million (Kshs 1,000,000) with one or two sureties of the same amount.
  2. He may be released on an alternative cash bail of Kshs 500,000.
  3. He shall upon release forthwith relocate from the area and/or place, that is, Kenton village in Kinangop Sub-County, Nyandarua County where the offence was committed, until the case is heard and determined.
  4. He shall not in anyway get in touch, intimidate or interfere with the witnesses herein and/or the family members of the deceased during and after the case is heard and determined. If the court receives information of interference with witnesses, the bond shall be cancelled until the case is heard and determined.
  5. The approved surety shall be obligated to report to the Hon Deputy Registrar quarterly on the availability of the applicant after release. The Hon Deputy Registrar shall set the applicable dates and the mode of appearance and file a report in court after the attendance of surety.
  6. The applicant shall be expected to report to court for hearing on all occasions whether mentions or substantive hearings.

Those then are the orders of the court.

It is so ordered.

**DATED, DELIVERED AND SIGNED ON 28<sup>TH</sup> SEPTEMBER, 2022.**

**GRACE L. NZIOKA**

**JUDGE**

**28/9/2022**

In the presence of

Ms Maingi for the state/Respondent

Mr. Wairegi for the accused/applicant

Court assistant- Ogutu



Applicant present virtually

