



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

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**Kanyugi v Republic (Criminal Case E003 of 2022)
[2022] KEHC 13587 (KLR) (22 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13587 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CRIMINAL CASE E003 OF 2022
GL NZIOKA, J
SEPTEMBER 22, 2022**

BETWEEN

ANTONY MUCHUNI KANYUGI APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The accused has applied for bond pending the hearing and determination of the case herein. He is charged with the offence of murder contrary to; section 203 as read with section 204 of the [Penal Code](#).
2. Upon considering the matter, the court ordered for a pre-bail report which has been prepared and filed in court. In addition, the applicant's counsel has urged the court to grant the applicant bail on the grounds that, he is ready to re-locate from the area of crime as prayed for by the respondent.
3. The respondent is not opposed to the grant of the bond on condition that, the applicant's safety be considered. Further, the terms given should secure his attendance to the trial and ensure he does not go to Mai Mahiu where the crime was committed or interfere with witnesses.
4. In determining this matter; I have considered the provisions of; clause 4.9 of the Bond and Bail Policy which states that in terms of substance, the primary factor considered by the courts in bail decision-making is whether the accused person will appear for trial if granted bail. The policy identifies the following factors to be considered:
 - a. The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.
 - b. The strength of the prosecution case.
 - c. Character and antecedents of the accused person.



- d. The failure of the accused person to observe bail or bond terms on previous occasions.
 - e. Likelihood of interfering with witnesses. However, bail or bond will only be denied if (i) there is strong evidence of the likelihood of interfering with prosecution witnesses, which is not rebutted, and (ii) the court cannot impose conditions to the bail or bond to prevent such interference.
 - f. The need to protect the victim or victims of the crime from the accused person.
 - g. The relationship between the accused person and potential witnesses.
 - h. Child offenders. Where the accused person is a minor, the denial of bail or bond is considered not to be in the best interests of the accused person, who is a minor.
 - i. The accused person is a flight risk. Where the accused person is a foreigner who does not have a fixed abode or hosts in the country and Kenya does not have an extradition treaty with the accused person's country, there is a presumption that he or she is a flight risk and may therefore fail to attend trial if granted bail or bond.
 - j. Whether accused person is gainfully employed.
 - k. Public order, peace or security. Whether the release of an accused person will disturb public order or undermine public peace or security.
 - l. Protection of the accused person. Whether pretrial detention is necessary to protect the accused person.
5. I have also considered the pre-bail report and I note that, it indicates that, the applicant has no previously history of absconding court proceedings. Further, the arresting officer has no objection to the grant of bail. There is no indication of interference with witnesses, save for his own safety, if he returns to the scene
6. In that case, and considering the aforesaid and the nature of the offence and the fact that, the prosecution is not objecting to the grant thereof; I allow the application on the following terms;
- a. The accused will be released on bond of; Kenya shillings eight hundred (Kshs 800,000) with one surety of like amount. He may be released on cash bail of; Kenya shillings five hundred (Kshs 500,000).
 - b. The accused will re-locate from the area. Mai Mahiu location in Naivasha, where the offence was committed and where the witnesses are residing until the case is heard and determined or until the courts orders otherwise.
 - c. The accused shall not attempt to reach and/or interfere with witnesses before, during the hearing of the case or and after they testify.
 - d. The surety shall be reporting to court quarterly on availability of the accused for trial and in that regard, he /she shall appear before the Hon DR on dates to be set by the Hon DR.

It is so ordered

DATED, DELIVERED, SIGNED ON THIS 22ND DAY OF SEPTEMBER, 2022.

GRACE L. NZIOKA

JUDGE



In the presence of;

Ms Maingi for the state

Mr. Owuor for the accused

Applicant present in remand and in court virtually

Ms Ogutu: Court Assistant

