



**Republic v Conrad (Criminal Case E086 of 2022)  
[2022] KEHC 16923 (KLR) (Crim) (28 December 2022) (Ruling)**

Neutral citation: [2022] KEHC 16923 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL CASE E086 OF 2022**

**K KIMONDO, J  
DECEMBER 28, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ALVIN ALUKHAVA CONRAD ALIAS SADAT ..... ACCUSED**

**RULING**

1. The accused seeks for bail pending trial. His learned counsel, Ms Manyaga, first made the application on December 20, 2022.
2. The republic opposed the application but sought for time to file a replying affidavit which has since been made by the investigating officer, corporal Christopher Njue. His deposition is sworn on December 23, 2022.
3. On December 28, 2022, I heard further submissions from the learned counsel for the accused and the republic.
4. In a synopsis, learned counsel for the accused submitted that bail is a constitutional right; and, that the accused is deemed innocent at this stage. In particular, she stated that the accused has languished in custody since December 2, 2022. She submitted that he is unlikely to interfere with any witness and that arrangements have been made by the family to relocate him to Eldoret. She attacked the conclusions in the replying affidavit as mere conjecture.
5. In a synopsis, learned counsel submitted that that there are no compelling reasons for denial of bail.
6. As I indicated, the Director of Public Prosecutions opposed the application. The objections are three-fold: Firstly, that the key witness is a ten-year-old step-daughter of the accused.; secondly, that there are



other witnesses well-known to the accused who reside at the locus in quo; and, lastly, that the security of the accused is not guaranteed.

7. I take the following view of the matter. The accused faces the grave charge of murder. The Director of Public Prosecutions informs the High Court that on the night of 27<sup>th</sup> and 28<sup>th</sup> November 2022 at Githurai 44 in Kasarani Sub-County within Nairobi County he murdered Florence Kaari Mbae.
8. Those remain allegations; and the accused is presumed innocent at this moment. Under article 49 (1) (h) of the *Constitution*, as read together with section 123 A (1) of the *Criminal Procedure Code*, he is entitled to bail unless there be compelling circumstances.
9. Regarding the phrase, compelling reasons, I am well guided by the decision of Gikonyo J in *Republic v Joktan Mayende & 3 others, High Court, Bungoma Criminal Case 55 of 2009 [2012] eKLR* where the learned judge stated-

But more light is shed by the Black's Law Dictionary 7<sup>th</sup> Edition. And accordingly, the phrase compelling reasons would denote reasons that are forceful and convincing as to make the court feel very strongly that the accused should not be released on bond. Bail should not therefore be denied on flimsy grounds but on real and cogent grounds that meet the high standard set by the *Constitution*.

10. The overarching objective of bail is to ensure the accused attends trial. See *Michael Juma Oyamo & another v Republic* [supra]; *Muraguri v Republic* [1989] KLR 181; *R v Fredrick Ole Leliman & 4 others, Nairobi High Court Criminal Case 57 of 2016 [2016] eKLR*.
11. The *Victims Protection Act 2014* now requires that the views of the victim's family be considered at this stage.
12. When I juxtapose those principles against the facts here, I find further as follows. The deceased was the wife of the accused. They had two children. The older one, is ten and is lined up to testify at the trial. It would be simplistic to say that she will be beyond the reach or influence of the accused merely because she has recorded a statement; or, because the accused can relocate to Eldoret. I have thus reached the conclusion that that the likelihood of interference with the witnesses is not far-fetched.
13. I also note from paragraph 6 of the replying affidavit that a lynch mob wanted to kill the accused. That would also be a compelling reason for denial of bail but it can be mitigated by the accused's relocation to Eldoret.
14. However, the court must strike a delicate balance that protects the rights of the accused but ensure that the course of justice is not frustrated.
15. I accordingly refuse to grant bail at this stage but direct that the motion be renewed after the ten-year-old step-daughter has testified. To further secure the rights of the accused, and in the interests of justice, I direct that that this trial shall be fast-tracked.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28<sup>TH</sup> DAY OF DECEMBER 2022.**

**KANYI KIMONDO**

**JUDGE**

**Ruling read virtually on Microsoft Teams in the presence of-  
Accused.**



**Ms. Manyaga for the accused.**

**Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.**

**Mr. E. Ombuna, Court Assistant.**

