



REPUBLIC OF KENYA



**Republic v Morara (Criminal Case E057 of 2021)
[2025] KEHC 2712 (KLR) (21 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 2712 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E057 OF 2021
DO CHEPKWONY, J
JANUARY 21, 2025**

BETWEEN

REPUBLIC STATE

AND

PAUL MAGARA MORARA ACCUSED

RULING

1. The Accused person, Paul Magara Morara, is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of offence are that:

“The Accused on the 22nd day of December, 2020 at Gitambaya location Ruiru Subcounty within Kiambu County murdered one Jasmin Cheronno Martim”
2. The accused was arraigned in court on 1st November, 2021, whereby it was ordered that he be remanded in custody so he can be escorted to hospital for a mental assessment to be conducted to ascertain if he is fit to plead and to be arraigned counsel to represent him.
3. On 8/11/2021, a mental assessment report was presented to court confirming that the accused was fit to plead. And having been assigned legal counsel to represent him, the accused proceeded to take plea and he pleaded “not guilty” to the offence of Murder.
4. Vide a Notice of Motion dated 17th December, 2021, the accused sought to be released on bond/bail pending trial. The application was opposed vide an affidavit sworn by Corporal Zablon Atubwa on the ground that the accused is a serial offender facing cases of capital offences.
5. In considering the said application, the court (Ngetich J) delivered a ruling on 17th November, 2022, whereby it dismissed the application by the accused for Bail on the basis that the accused is a serial offender facing numerous capital offences which include Kiambu Criminal Case No E060 of 2021 for the offence of murder, Ruiru CMCC No E2827 of 2021, Ruiru CMCC No E2980 of 2021, Ruiru



CMCC No E2826 of 2021, all for offence of robbery of violence. The court further noted that the accused had been accused of being a flight risk since he had no fixed abode hence was likely to abscond if released on bond and in view of the many cases he was involved in. The court thus found that the prosecution had compelling reasons for the Accused person to be denied release on bond terms.

6. On 23rd October, 2024, the accused was assigned another Counsel who is urging that the court to review the decision by the court delivered on 17th November, 2022, and grant him favourable bond terms. The Prosecution Counsel stated that the Accused ought to file a formal application and further stated that it had already filed an Affidavit seeking denial of bond terms for the accused. The court then directed that a sound inquiry be conducted and a pre bail report to be prepared for the court's consideration. The pre-bail information report was filed on 19th November, 2024.
7. In conclusion of the report, the Probation Officer has stated that the accused person is a 29 year old father of one child (another child is deceased) and had been working on casual jobs. It was stated that the accused had been charged in court for different offences whereby he was charged in Ruiru Law courts vide Criminal Case No E2980/2021, where he was convicted and sentenced to serve fifteen (15) years imprisonment on 5th March, 2024 and in Criminal Case No E2826, where he was convicted on 7th June, 2024. It was also indicated that he is also charged in yet another Murder Case being Kiambu Chief Magistrates Criminal Case No E060 of 2021, where he was not granted release on bail terms.
8. On the part of his family, it is stated that they are supportive of him being granted bond and are willing to stand as his surety. However, the victim's family are opposed to this out of bitterness and allege that he may be a flight risk, hence jeopardize justice.
9. From their findings, the Probation Officer has recorded that the accused is not suitable for release on bail/bond terms since he is serving a 15 year jail term having been convicted for the offence of robbery with violence vide Kiambu Criminal Case No E2826 of 2021, on 7th June, 2024, and still has an ongoing Murder Case being Kiambu HCCRC No E060 OF 2021 where he is yet to be granted an order for release on bond/bail terms

Analysis and Determination

10. To determine whether or not a court should review the bail/bond terms as granted for the accused, the court should consider whether there were compelling reasons to deny the same and whether there has been a change in circumstances.
11. In the case of *Republic v Joseph Thiongo Waweru & 17 others* [2017] eKLR, the court defined compelling reasons as follows: -

“The Constitutional standard for denying bail is “compelling reasons” test. The burden is on the Prosecution to establish the existence of the “compelling reasons” that would justify denial of bail. Our emerging jurisprudence on the question is clear as to the kind of evidence needed to establish the “compelling reasons”: The evidence presented must be “cogent, very strong and specific evidence” and that mere allegations, suspicions, bare objections and insinuations will not be sufficient.”
12. Having considered all the circumstances prevailing in this case, the court finds that compelling reasons to deny the accused person release on bail and bond terms are still overwhelming. The fact that the Accused has been convicted and sentenced in previous charges before the court in Ruiru and still has another pending murder case before this court, clearly shows that that there has been no change in circumstances and that the Accused person is undeserving of release on bail and bond terms.



13. The upshot is that the Accused person has not shown or demonstrated any change of circumstances and his application made on 23rd October, 2024, is dismissed. The accused shall remain in custody during the pending of his trial.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 21ST DAY OF JANUARY, 2025.

D.O CHEPKWONY

JUDGE

In the presence of:

Martin – Court Assistant

Accused – Present

Mr. Gacharia counsel for State

No appearance for the Accused

