



**Republic v Kamau (Criminal Case E012 of 2024)
[2025] KEHC 2951 (KLR) (10 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2951 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E012 OF 2024
LN MUTENDE, J
MARCH 10, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER IRIA KAMAU ACCUSED

RULING

1. Peter Iria Kamau, the accused, is charged with the murder of Lizabeth Madaraka Stanley alias Eunice Wangare Kamau which occurred on 1/11/2024 at Lokiriam village Uaso Narok Sublocation, Mutitu location, in Nyahururu Sub-County within Laikipia County.
2. Having denied the allegations put forth the accused seeks to be released on bail pending trial, an application that is opposed by the State based on the pre-bail report filed.
3. Mr. Mugo learned counsel for the accused urged the court to be guided by the report in reaching the decision.
4. According to the Pre-bail report filed, the accused is 31 years old; a third born in a nuclear family where the primary victim was the first born. He lived at his parents' homestead in a one roomed semi-permanent house. He is no longer wanted by the family such that if released his safety is not guaranteed. He does not have significant ties that would make him remain in the area. His family strongly opposes his release on bail and no one is willing to post bail for him following allegations that he is a threat to his mother.
5. The community in Uaso Narok have negative sentiments towards his release. Similarly, the local administration is against his release on bond citing safety of the accused and also his family members.
6. It was established by the probation officer the accused abuses alcohol, has violent tendencies, steals and was arraigned in *Nyahururu Criminal Case No. 1952 of 2016* where he could not raise bond.



7. I have considered averments on record and in particular, the Probation Officer's report. The right to bail is a constitutional one protected and guaranteed under the constitution. Article 49 (1) (h) provides for the right to bail unless compelling reasons exist requiring the accused being incarcerated. The prosecution is hence obligated to adduce strong forceful and compelling reasons warranting the court to deny the accused bail.
8. This is a matter where the defence seeks to be guided by the probation officer's report that is not favourable. Section 203 as read with Section 204 of the Penal Code provides for the offence of murder and the corresponding penalty as the death sentence. However, the court has discretion to mete out a lesser and more lenient sentence following the decision of the Supreme Court in Francis Karioko Muruatetu v Republic (2017) eKLR. In addition, murder is a bailable offence in the current constitutional dispensation.
9. The severity of the offence may not be a plausible ground to deny the accused bail. The principle is that the accused has a right to be presumed innocent until all allegations against him are proved beyond doubt.
10. On the question of lack of a place of abode, the accused has not endeavoured to state where he would stay if released on bond now that his family is emphatic that he is persona non grata at his home.
11. On the question of the safety of the accused, Section 123 A of the Criminal Procedure Code provides:
 - (1) Subject to Article 49(1)(h) of the Constitution and notwithstanding section 123, in making a decision on bail and bond, the Court shall have regard to all the relevant circumstances and in particular—
 - (a) The nature or seriousness of the offence;
 - (b) The character, antecedents, associations and community ties of the accused person;
 - (c) The defendant's record in respect of the fulfillment of obligations under previous grants of bail; and;
 - (d) The strength of the evidence of his having committed the offence;
 - (2) A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person—
 - a. Has previously been granted bail and has failed to surrender to custody and that if released on bail (whether or not subject to conditions) it is likely that he would fail to surrender to custody;
 - b. Should be kept in custody for his own protection. (Emphasis added)
12. The accused person's safety cannot be taken for granted. An accused person is protected pursuant to rights enshrined in the constitution which includes his safety. In Republic v Joktan Mayende & 4 others (2012) eKLR it was stated that:

“...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 standards set by the constitution.”



13. The consideration of the above clearly proves that being kept in custody during trial in the instant case is a compelling reason calling for denial of bail. For that reason, the application for bail pending trial be and is hereby denied.

14. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 10TH DAY OF MARCH, 2025.

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L.N. MUTENDE

JUDGE

