



Republic v Momposhi alias Kipangara & another (Criminal Case E014 of 2024) [2025] KEHC 2684 (KLR) (6 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2684 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KILGORIS
CRIMINAL CASE E014 OF 2024
CM KARIUKI, J
MARCH 6, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL KISERIAN MOMPOSHI ALIAS KIPANGARA 1ST ACCUSED

JULIUS SINDA KURATE 2ND ACCUSED

RULING

1. The accuseds are charged with offence of murder. Particulars are that on 02/11/2022 at Isolo village, Sikawa location, Trans Mara West Sub- County, Narok County jointly with others not before court murdered Lilian Rateti Momboshi.
2. They pleaded not guilty, and the matter went in pre-trial directions. They sought to be released on bond/bail. The state has opposed their release on bond via affidavit of Investigating Officer Jumba Gulavi sworn on 12/02/2025. Following the grounds cited are that they are likely to interfere with witnesses. It is also alleged that accused persons relocated after the incident, thus branded as flight risk. Those accused persons are also in danger as members of the public are irate over the act by accused persons.
3. However, on the allegations by the Investigating Officer, the averments are bare statement without supporting the facts or source of information.
4. Whereas the information accused had relocated from the incident from where to where they did so? Who are the witnesses who are likely to be interfered with? Why has prosecution sought witnesses' protection or asked the court to hear them first before the accused are released on bond? Who is likely to harm accused persons if released on bond?
5. The Principles of grant of Bond



6. According to Kenyan law, the primary principle for granting a bond pending trial is the presumption of innocence, meaning an accused person should be released on bail unless there are compelling reasons to deny it, as outlined in Article 49(1)(h) of the Kenyan *Constitution*; this is further supported by the *Criminal Procedure Code* (CPC) which allows for bail in most cases, with considerations like the nature of the offense, the likelihood of the accused appearing in court, and the potential risk to the community playing a significant role in determining the appropriate bond terms.
7. Key principles for granting bond pending trial in Kenya: Presumption of innocence: The accused person is considered innocent until proven guilty, therefore, bail should be granted unless there are strong reasons to deny it. Reasonable conditions: When granting bail, the court must set reasonable conditions to ensure the accused person appears in court for trial, such as providing sureties or surrendering travel documents. Nature of the offense:
8. The seriousness of the crime is a significant factor in deciding whether to grant bail, with offenses like murder or robbery with violence often having stricter requirements. Likelihood of absconding:
9. The court will consider whether the accused is likely to flee the jurisdiction if released on bail. # Community safety: If the accused is considered a threat to the community, bail may be denied or set with stringent conditions. Personal circumstances:
10. Factors like the accused person's family ties, employment history, and previous criminal record can be considered when determining bail conditions. The incident took place on 02/11/2022 over 2 years ago.
11. The pre-bail report for both accused persons are positive and recommends bond but with strict terms. The accused persons have responded to the investigating officer's affidavit via their own affidavit sworn jointly on 03/03/2025 demonstrating grounds of for grant of the bond.
12. They hereby relied on Article 49 & 50 of the *constitution* of Kenya 2010 on doctrine of presumption of innocent and right to bail/bond pending trial. The IO affidavit demonstrates the absence of compelling reasons for denial of bond pending trial.
13. The court has gone through investigating officer's affidavit, pre-bail report, replying to affidavit by the accused persons and finds no cogent evidence demonstrating compelling reasons meeting constitutional threshold for denial of bond pending trial.
14. However, I agree with the (PBR)pre-bond bail report that strict bail terms have to be imposed.
15. Thus, the court makes the orders.
 - i. The accused persons are granted bail and Kshs.500,000/= each with one surety each of equal amount.
 - ii. Further, upon release, they shall report to the nearest CID (DCI) office every first week of the succeeding month until further orders of this court.
 - iii. They shall also not intimidate, harm or get into contact with any of the witnesses listed for testifying in the instant matters.
 - iv. Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY IN KILGORIS HIGH COURT ON 6TH DAY OF MARCH 2025.

CHARLES KARIUKI

JUDGE



In The Presence Of:

Court Assistant: Mr.nyangaresi

Advocate For The Accuseds:

