



**Republic v Njuguna & 2 others (Criminal Case E008 of 2023)
[2025] KEHC 3129 (KLR) (Crim) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3129 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E008 OF 2023
MW MUIGAI, J
MARCH 6, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

PETER KAMAU NJUGUNA 1ST ACCUSED

GIDEON NJOROGE KINUNGI 2ND ACCUSED

KENNEDY NJUGUNA WAMBUI 3RD ACCUSED

RULING

1. On 3/7/2024 Hon LJ L.Mutende delivered Ruling on bond/bail; 1st Accused person was denied bail/ bond but 2nd & 3rd Accused persons were granted bail/bond of Ksh 3,000,000/- each with 2 sureties each.
2. On 13/2/2025, this matter proceeded for hearing with PW1 who testified but 1st Accused person's Advocate was absent no reasons were advanced for the Court to consider nether was there Advocate holding brief. The hearing was adjourned to 5/5/2025and Deputy Registrar through Pro-bono Committee to appoint another Advocate for the 1st Accused person.
3. The 2nd Accused person's Advocate Mr. Mokua applied for review of bond terms as per the evidence of PW1 circumstances changed.
4. The 2nd Accused was not identified and therefore the case against the 2nd Accused person was not a strong one. The object of bail /bond is to ensure that one attends Court. The 2nd Accused person has been in custody for the 3rd Year now and prayed for lenient terms of Cash bail.



5. The ODPP represented by State Counsel Ms. Tum opposed review of bail/bond terms as the reason for change of circumstances is not sufficient. PW1 testified

but was stood down and will be back to testify and the Court has not heard all her evidence. The delay of hearing the case was not caused by Prosecution or Defense. The Ruling on bail /bond was delivered on 3/7/2024 and there are no new developments as such to make review of bail/bond terms applicable.
6. Mr. Mokuia for 2nd Accused person replied that the Ruling indicated that the 2nd Accused was eligible for bail/bond and Article 49 of the Constitution prescribes bail/bond is to be granted unless there are compelling reasons. The 2nd Accused person is presumed to be innocent until found guilty. Therefore, sought bond/bail reduction.
7. The law on grant of bond and bail is settled as enshrined in the Constitution and relevant legislation. Article 49(1)(h) of the Constitution grants bail for all offences, the gravity of the offences notwithstanding. That the presumption of innocence is enshrined in Article 50(2) of the Constitution. Section 123 of the Criminal

Procedure Code allows the accused person to request for bail, and the court to grant it. These provisions do not limit the number of times request for bail or bond may be made as was stated in Republic Vs Ahmad Abolafathi Mohammad & Anor 2013 eKLR.
8. The Bail & Bond Policy Guidelines 2015 prescribe factors to be considered in granting or denying bail or bond and the process of effecting release of Accused persons on bail or bond to conduct criminal proceedings while out on bail or bond.
9. Grant of bail or bond or review of the bail and bond terms is a question of balancing act of protecting and upholding rights of Accused person(s) and victims. A person is presumed innocent until proved guilty by evidence through Court proceedings. To refuse bond might deprive an innocent person liberty who may later be found not guilty. The converse is that the person is

released on bond risks the safety and security of potential witnesses or interference with evidence absconds or commits criminal offences.
10. In the instant case, the Court proceeding just begun PW1 was stood down and will be recalled and 1 witness's evidence does not by and of itself give the full picture of the criminal proceedings and evidence thereof. It is premature. Therefore, circumstances have not changed to warrant review of bond and bail terms.
11. Secondly, further to the Affidavit filed by Investigation Officer with regard to arrest of the 2nd & 3rd Accused persons that remains on record, the ODPP objected to review of bond as circumstances have not changed.
12. This Court notes that already the Trial Hon Judge granted bond terms that are in the circumstances reasonable for now.
13. Thirdly, this Court read through the Pre-Bail Reports of the Accused persons and I am not persuaded the 2nd & 3rd Accused persons are eligible for review of bail /bond terms for now.
14. The application shall be renewed considered after progress of the hearing.

**RULING DELIVERED SIGNED & DATED IN OPEN COURT IN CRIMINAL DIVISION -
MILIMANI VIRTUALLY/PHYSICALLY**

ON 6/3/2025



M.W.MUIGAI
JUDGE

