



REPUBLIC OF KENYA



KENYA LAW
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**Muiruri alias Wagikomba v Republic (Criminal Case
E012 of 2021) [2025] KEHC 4642 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4642 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE E012 OF 2021
CW GITHUA, J
APRIL 8, 2025**

BETWEEN

PETER NGARUIYA MUIRURI ALIAS WAGIKOMBA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The accused, Peter Ngaruiya Muiruri alias Wagikomba, is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
The particulars allege that on 12th April 2021 at Ndirini village, Kandara Sub- County in Muranga County, he murdered Samuel Ngugi Irungu.
2. The court record shows that the accused took plea on 8th July 2021 and he denied the charges. Ms. Waititu, his learned counsel immediately applied for his admission to bond or bail pending trial but the application was rejected by Kimondo J on grounds that there was palpable anger at the locus in quo which prejudiced the accused person's security.
3. The record also shows that the trial commenced on 26th April 2023 and one witness testified. Case was adjourned for lack of witnesses. Subsequently, Ms. Waititu made a fresh application seeking that the accused be admitted to bail or bond pending conclusion of his trial arguing that his security was no longer at risk; that he was a family man with a fixed abode and he was therefore not a flight risk.
4. Counsel further invited the court to note that the offence was committed in the year 2021 and so far, only one witness had testified; that given the court's workload, hearing the case to conclusion will take a long time. She informed the court that the accused was ready to comply with all conditions the court may impose as prerequisites for his release.



5. The application was opposed by the prosecution through a replying affidavit sworn on 22nd September 2024 by PC Julius Otieno, the investigating officer who deposed that the accused and the prosecution witnesses lived in the same area and if released, the accused was likely to interfere with potential prosecution witnesses; that since there was still hostility on the ground, bail should be denied for the accused's own safety. Further, PC Otieno contended that the accused did not have a fixed abode and he was therefore a flight risk.
6. In response to the depositions made by the Investigating Officer, Ms. Waititu swore an affidavit on 12th November 2024. She re-iterated that the accused had a fixed abode at Gaichanjiru village, Githambo location and he was therefore not a flight risk; that the community within which the offence took place was now calm and releasing the accused was no longer a security threat; that in any event, the accused was ready to relocate to Thika where he would settle during pendency of the case.
7. The application was argued orally before me on 18th March 2025. Learned Counsel for the accused expounded on the depositions made in her replying affidavit and urged me to allow the application.
On her part, learned prosecution counsel Ms. Muriu conceded to the application on the basis of findings made in the pre- bail report filed in court on 20th November 2024. The pre- bail report confirmed that the situation on the ground had changed as members of the accused's community were now positive towards him and they were ready to welcome him in their midst. The report also confirmed that the accused had a fixed abode at Gaichanjiru village where he lived with his family.
8. I have carefully considered the application and the affidavits sworn in support and in opposition thereto as well as the oral submissions made on behalf of both parties. I have also read the pre- bail report filed 20th November 2024. It is now common knowledge that admission to bond or bail pending trial is a constitutionally guaranteed right unless the prosecution was able to demonstrate existence of compelling reasons to justify denial of that right.
9. In this case, it is clear from the pre- bail report and from Ms. Muriu's submissions that the reasons that earlier caused denial of bond to the accused person no longer hold true. The hostility that had previously been expressed towards the accused by members of his community has now completely dissipated.
10. Contrary to the claims made by the investigating officer, the pre- bail report confirms that the victim's family and the accused do not live in the same village and although it is not clear whether or not any member of the victim's family is a potential prosecution witness in this case, the prosecution has not demonstrated how the accused was likely to interfere with its witnesses if released.
11. I have taken note of the views expressed by the victim's family as required of me by the Victims Protection Act of 2014 and while I empathise with the deceased's mother, it must be remembered that under Article 50 (2) (a) of *the Constitution* of Kenya, the accused enjoys the right to be presumed innocent until proven guilty. The bitterness expressed by the victim's family cannot be a reason to deny the accused his constitutional right to bond pending trial.
12. Taking all relevant factors into account, I find that Ms. Muriu was right in conceding to the application. In the premises, I find merit in the application and it is hereby allowed. The accused is admitted to bond on condition that he executes a personal bond of Kshs.300,000 together with one surety of a similar amount. Upon his release, he shall attend this court whenever required without fail in default of which his bond shall be cancelled.
13. It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANGA THIS 8TH DAY OF APRIL 2025.



HON. C. W. GITHUA

JUDGE

In the Presence of :

The accused

Ms. Muriu for the state

Ms. Susan Waiganjo, Court Assistant

No appearance for accused's Counsel.

