



**Republic v Ndung’u (Criminal Case E007 of 2024)
[2025] KEHC 4921 (KLR) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4921 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL CASE E007 OF 2024
MA ODERO, J
APRIL 24, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER KAMAU NDUNG’U ACCUSED

RULING

1. The accused herein Peter Kamau Ndung’u has applied to be admitted to bail/bond during the pendency of his trial on a charge of Murder Contrary To Section 203 of the Penal Code Cap 63 Laws Of Kenya.
2. The prosecution opposed the release of the accused on bail citing the fact that his release may compound the grief of the victim’s family and members of public. That the accused may not be safe if released on bond.
3. Section 49(1) (d) of the Constitution of Kenya 2010 provides for the release of an accused person on bail in the following terms;-

“ 49

(1) An arrested person:-

- a. -----
- b. -----
- c. -----
- d. -----
- e. -----



- f. -----
- g. to be released on bail on reasonable conditions pending a charge or trial, unless there are compelling reasons not to be released.”

4. I have considered this application for bail; the objection contained in the Affidavit dated 26th July 2024, as well as the Pre-bail report which was filed in court on 23rd April 2025.
5. It must be remembered that the right to bail is grounded in our constitution and may only be denied where compelling reasons have been adduced. The *Concise Oxford Dictionary* 9th Edition defines the word compelling as
“rousing, strong, interest attention, conviction or admiration.”
6. For reasons to be compelling the court must be convinced that it serves the interests of justice to deny the accused person bail. Having said that I find that bail being a constitutional right ought not be denied on flimsy and/or unjustified grounds.
7. The prosecution have conceded that the accused is a low flight risk. It was submitted that the release of the accused on bail may compound the grief of the victim’s family. In my view this is not a compelling enough reason to deny the accused bail.
8. The argument that the accused may not be safe if released on bail is equally non-persuasive. This is a democratic country with systems in place to protect all citizens. One cannot be kept in custody on the basis of some perceived threat.
9. The accused is a person known in his community. He has a fixed abode in Nyeri Central Sub-county and his family is known to the local administration in the area. There is no evidence of any criminal antecedents on the part of the accused.
10. The allegation that the accused is likely to interfere with witnesses if released on bond remains just that – an allegation. There is no evidence of approaches made by accused or his family to any witness.
11. On the whole I find no compelling reason to deny the accused bail. I therefore allow this application. The accused is admitted to a bond of Kshs. 500,000/- plus 1 surety of a like sum. It so ordered.

DATED IN NYERI THIS 24TH DAY OF APRIL 2025

MAUREEN A. ODERO

JUDGE

