



**Republic v Nyaga (Criminal Case E004 of 2025)
[2025] KEHC 4857 (KLR) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4857 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL CASE E004 OF 2025
MA ODERO, J
APRIL 24, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

KELVIN MURIITHI NYAGA ACCUSED

RULING

1. The accused herein Kelvin Muriithi Nyaga has applied to be released on reasonable bond terms 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 person on bail arguing that he was a flight risk. The prosecution also cited the sentiments of the family of the victim as a factor to deny the accused bail.
3. Section 49(1) (d) of *the Constitution* of Kenya 2010 provides for the release of an accused person on bail/bond as follows

“ 49(1) An arrested person

- (a)
- (b)
- (c)
- (d)
- (f)
- (g)



(h) to be released on bail on reasonable conditions, pending a charge of trial, unless there are compelling reasons not to be released.”

4. I have considered this bail application, the objection mounted thereto as well as the pre-bail Report filed on 22nd April 2025.
5. The Prosecution submitted that the accused was a flight risk citing the fact that he had disappeared from the university after the incident. However I note that the accused did not leave the country to some unknown place. Indeed he was found and arrested at his parents’ home in Embu County.
6. The prosecution also urged the court to consider the sentiments of the family of the victim who stated that they would be further traumatized if the accused were to be released on bail. With greatest respect and with great sympathy to the victim’s family over their loss the court cannot and should not deny an accused person bail based on the trauma the victim’s family may suffer.
7. 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.”
8. 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.
9. I note that he accused was a student who was undertaking studies at Karatina University. He does not have any known criminal antecedents. The accused has affixed abode. His home in Runyenjes Sub-county Embu county is known and he and his family are known to the local administration in their area.
10. It has not been alleged that the accused may pose a risk to the public if he is released on bail. Nor has it been alleged that the accused is likely to interfere with witnesses if he is released on bond.
11. On the whole I find that no compelling reason has been advanced to deny the accused person bail. I therefore allow this application. The accused may be released on a bond of Kshs. 500,000/- plus one (1) surety of a like amount. It is so ordered.

DATED IN NYERI THIS 24TH DAY OF APRIL, 2025

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MAUREEN A. ODERO

JUDGE

