



**Republic v Ndirangu (Criminal Case E022 of 2022)  
[2025] KEHC 6839 (KLR) (2 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 6839 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CRIMINAL CASE E022 OF 2022**

**GL NZIOKA, J  
APRIL 2, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**MOSES KARANJA NDIRANGU ..... ACCUSED**

**RULING**

1. By a notice of motion application dated 15<sup>th</sup> December 2023, the applicant seeks to be admitted to reasonable bond terms pending the hearing and determination of the suit.
2. The respondent filed in response grounds of opposition dated 22<sup>nd</sup> May 2024 and affidavits dated 9<sup>th</sup> July 2024 and 10<sup>th</sup> July 2024 sworn by Lydia Wamaitha Mwangi and No. 104943 PC Linda Were the investigating officer respectively opposing the release of the applicant on bail.
3. Subsequently, the court ordered for a pre-bail report and a report dated 28<sup>th</sup> May 2024 was filed.
4. At the hearing of application an issue arose as to whether the application filed by the applicant is competent on the ground that it is supported by an affidavit sworn by one Rose Njeri Ndirangu who deposes that she is the applicant's mother. The argument by the respondent is that she is not competent to depose to matters that are not within her knowledge.
5. However, the applicant argues that the deponent is his surety and therefore can depose on behalf as to his suitability to be released on bond. That under Article 50 of *the Constitution* of Kenya, 2010, the applicant can be represented by an intermediary.
6. However, the respondent in response argues that since the applicant has not been granted bond yet it cannot be argued that the deponent is a surety.
7. Having considered the afore arguments, I note first and foremost there is no reason advanced as to why the applicant could not swear an affidavit in support of his own application. Secondly, it is a fact that



the deponent cannot purport to be swearing the affidavit as a surety since she is not yet one. Thirdly, Article 50 which has been referred to does not envisage a situation where a person with full capacity to prosecute his case allows a third party to do so without reasonable excuse.

8. Finally, a person who deposes to any fact must state in no uncertain terms that he or she has full knowledge of the matters they are deposing to and believe the same to be true. The deponent herein can purport to have full knowledge of matters deposed on. Furthermore, if need arises to cross-examine the deponent she may not be able to authenticate her averments.
9. In the circumstances, without going into the merits of the application, I find the application incompetent for want of evidence in support thereof and dismiss it and/or strikes it out.
10. However, the applicant has leave and is at liberty to file a competent application for consideration by the court on merits.

**DATED, DELIVERED AND SIGNED THIS 2<sup>ND</sup> DAY OF APRIL 2025.**

**GRACE L. NZIOKA**

**JUDGE**

