



**Njeri & 2 others v Republic (Criminal Case E038 of 2024)
[2025] KEHC 6890 (KLR) (21 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6890 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
CRIMINAL CASE E038 OF 2024
RM MWONGO, J
MAY 21, 2025**

BETWEEN

JOHN NENE NJERI 1ST ACCUSED

PURITY WANDIRI NJUKI 2ND ACCUSED

CAROLINE KARIMI WAWIRA 3RD ACCUSED

AND

REPUBLIC PROSECUTION

RULING

BACKGROUND

1. The applicants are charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars of the offence are that on the night of 24th-25th October 2024 at Gatunduri Shopping Center, Embu West subcounty within Embu County, the accused persons, jointly with other not before court, murdered Dorothy Catherine Njoki Njeru.
2. When the applicants were charged, they applied to be released on bail/bond terms. The court allowed the application and set bond at Kshs.1,000,000/= with surety of similar amount and Kshs.400,000/= as the alternative for each accused.

The Application

3. Counsel for the applicants, orally applied for review of the bail/bond terms, proposing that the court imposes Kshs.150,000/= cash bail and a bond of Kshs.400,000/= for each of them.
4. The prosecution opposed review of bail/terms stating that the bond terms are reasonable in the circumstances. It urged that the bond terms be retained.



Probation Officers Pre-bail Reports (P.O.R)

5. A pre-bail report dated 03rd March 2025 was filed for each of the accused persons. In the case of the 1st accused, the report is unfavourable as it portrays him as a flight risk. Since bail had already been set by the court, the report does not recommend reduction of the same because he may easily leave the jurisdiction of the court. The victim's family is apprehensive of his release given that they are related.
6. In the case of the 2nd applicant, the Probation Officer's Report discloses that she is also a flight risk. The family of the victim narrated that she was closely involved in the murder of the deceased, which event was funded by a relative living abroad. The report does not recommend reduction of the bail amount.
7. The 3rd accused was viewed by the community, through the Probation Officer's Report as one who is dangerous and if possible, the bail amount should not be reduced. The report recommended that the 3rd accused is also a flight risk.
8. None of the accused persons are known to have jumped bail before, since this is the first known offence they were charged with.

Issue for Determination

9. The only issue for determination is whether or not bail/bond terms should be reviewed downwards.

Analysis and Determination

10. The court had already set bond and bail terms which the accused persons seek to have reviewed. In considering whether or not to review bond and bail terms, the court ought to consider whether allowing the same will interfere with the dispensation of justice. This was so stated in the case of *Republic v Diana Suleiman Said & another* [2014] KEHC 3724 (KLR) where it was held:

“I consider that the principles generally of the accused's ability or propensity to interfere with the due administration of justice having regard to the circumstances of the case and the considerations of the society or public interest are matters to be considered in considering a review of bail...”

11. When the court set bail, it considered several factors including the seriousness of the offence. In the case of *Masroor v State of Uttah Pradesh and Anor* {2009} (14) SCC 286, the Supreme Court of India stated thus:

“There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned.”

12. Before reconsidering bail/bond terms, the court should consider whether there are any proven changes in circumstances of the case, victims or the accused persons. In *Republic v Diana Suleiman Said & another* (supra), it was held:

“With respect, I do not agree that the review of bail on the ground of changed circumstances, or changes in the circumstances of the case, including circumstances of the accused,



witnesses, victims or the society affected by alleged crime is a strange phenomenon. I would say our courts do it every day when we sit to consider renewed applications for bail such as when volatility on the ground is established to have ceased or for the cancellation of bail on account of accused's refusal to attend court while on bail, when sureties withdraw or for other reasons.”

13. Article 49(1)(h) of *the Constitution* entitles the accused persons to release on bail or bond on reasonable conditions. Looking at other cases of murder and how bail was determined, the terms set by this court are reasonable, all factors considered. In the case of *Jackson Maina Wangui v Republic* [2012] KEHC 3013 (KLR) bail was set at Kshs.1,000,000/= with an additional condition that the applicant reports to the OCS Industrial Area Police Station every alternate Monday of every month until the case is heard and determined. in *Republic v Diana Suleiman Said & another (supra)* the court reviewed bail terms considering the proven change in the circumstances of the case and the accused person.

Conclusions and Disposition.

14. In the present case, defence Counsel applied for bail review orally in Court on 10/02/2025. Defence Counsel stated merely as follows:

“Mr. Andande seeks review of bail terms. We seek Kshs.150,000/- cash bail and a bond of Kshs.400,00/=”

15. No reasons or explanation were given by the defence. At the time, no probation report had been filed for any of the accused persons.
16. In the circumstances, the application for review is not backed by sufficient cause. It is therefore dismissed.
17. Orders accordingly.

DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 21ST DAY OF MAY, 2025.

R. MWONGO

JUDGE

Delivered in the presence of:

Accused present in Court.

Muchangi holding brief for Andande for Accused.

Ms. Nyika for the state.

Francis Munyao - Court Assistant.

