



Republic v JNN (Criminal Case E016 of 2024) [2025] KEHC 5977 (KLR) (14 May 2025) (Ruling)

Neutral citation: [2025] KEHC 5977 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE E016 OF 2024
DR KAVEDZA, J
MAY 14, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JNN ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 of the *Penal Code*, Cap 63 Laws of Kenya. The particulars of the offence are that on 12th October 2024 at around 6 am at KNH staff quarters within Kibera Sub County, within Nairobi murdered Fidelis Mutave. He pleaded not guilty. He has now approached this court seeking to be released on reasonable bail/bond terms pending his trial.
2. CPL Gabriel Wahome filed an affidavit on 25th February 2025 opposing bail. He stated that the accused has a history of bipolar disorder and substance induced psychosis diagnosis. Further, he has refused to take medication and has consequently become aggressive and displayed violent behaviour. He is a risk to himself and members of the public if released. After the incident members of the public were baying for his blood and his life was in danger. He urged the court to deny bail at this stage.
3. In response, the accused maintains that the state has failed to prove compelling reasons to deny bail. He asserts he is not a flight risk, having lived with his parents and intending to continue residing with them at Makongeni Estate. No evidence has been presented that he attempted to abscond before arrest. He previously worked as a clerk in the Ministry of Interior and intends to resume duty. He is willing to comply with all bail conditions, including mental health check-ups. As a person with bipolar disorder, he argues that care, not incarceration, is appropriate. Allegations that he may reoffend are speculative and unsupported.
4. The application was canvassed by way of written submissions which have been duly considered.



5. Article 49(1) (h) of the *Constitution* guarantees the right of an arrested person to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released. The onus of proof in bail applications in respect of compelling reasons is borne by the state under section 123A of the *Criminal Procedure Code* (Cap 75) Laws of Kenya. The right for an accused person to be released on bail is not absolute.
6. In determining whether the interest of justice dictates the exercise of discretion under Article 49 (h) of the *Constitution*, the courts are to be guided by the provisions of section 123A of the *Criminal Procedure Code* (Cap 75) Laws of Kenya which provides:

“In such a determination the courts are to factor the following exceptions to limit the right to bail;

 - (a) Nature or seriousness of the offence;
 - (b) The character, antecedents, associations, and community of the accused person;
 - (c) The defendants record in respect of the fulfilment of obligations under previous grant of bail;
 - (d) The strength of the evidence of his having committed the offence:
 - (2) A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person;
 - (a) Has previously been granted bail and has failed to surrender to custody if released on bail, it is likely that he would fail to surrender to custody;
 - (b) Should be kept in custody for his own good.
7. The pre-bail report on record, indicates that the victim’s family strongly opposes the accused’s release on bail, citing his family’s failure to offer condolences or assistance and expressing fears of re-traumatisation and recent threatening calls under investigation.
8. The local chief from Koelele Village, Trans Nzoia, knows the accused’s parents but not the accused, who grew up in Nairobi. A neighbour at Kenyatta National Hospital staff quarters described the accused as mentally unstable, introverted, and violent, noting the community considers him a threat. Hostility from neighbours led the family to relocate to Makongeni Estate.
9. The Investigating Officer opposes bail due to concerns over the accused’s mental health and violent history.
10. The accused’s father, a KNH employee, is willing to act as surety using his payslip and also accommodate the accused at their Makongeni home to ensure court attendance and treatment. The accused, a youth with bipolar disorder, acknowledges the seriousness of the charges.
11. Upon careful consideration of the material presented, the Court notes that the accused has a history of refusing to adhere to prescribed medication, despite suffering from bipolar disorder. This non-compliance with treatment raises significant concerns regarding his mental stability and potential risk to the public. Further, there are credible reports suggesting that the accused has previously exhibited violent behaviour, both within the community and towards his neighbours.



12. Additionally, the Court takes judicial notice of the prevailing public sentiments, which reflects ongoing hostility and a strong desire for retaliation. This presents a real and imminent threat to the accused's own safety if released on bail, as well as a risk to public order.
13. Given the heightened tension, the mental health concerns, and the potential for public unrest or harm, the Court finds that the prosecution has demonstrated compelling reasons to justify denial of bail.
14. Accordingly, the application for bail is dismissed in the interest of justice and public safety.
Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 14TH DAY OF MAY 2025

D. KAVEDZA

JUDGE

In the presence of:

Ms. Timoi for the Prosecution

Ms. Muyoka for the Accused

Tonny Court Assistant.

