



REPUBLIC OF KENYA



**Republic v Individual (Criminal Case E005 of 2024)
[2025] KEHC 5720 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5720 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KILGORIS
CRIMINAL CASE E005 OF 2024
CM KARIUKI, J
MAY 8, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

DANIEL LETEIPA JAMES ACCUSED

RULING

Bond/Bail Application

1. Ms. Saika, counsel for the accused person, orally applied for the accused person to be released on reasonable bond terms. She argued that the accused would abide by all the terms.
2. Mr. Okeyo, prosecution counsel, opposed the application for the reason that crucial witnesses have not testified.

Analysis And Determination

Right to bail

3. All persons charged with a criminal offence are entitled to be released on bond on reasonable conditions except where there is a compelling reason not to be so released (art. 49(1)(h) of *the Constitution* of Kenya, 2010). This is based on the right to be presumed innocent until the contrary is proven (R. vs. Richard David Alden (2016) eKLR).

Compelling reason and burden of proof

4. The prosecution bears the onus of proving compelling reasons under Article 49(1)(h) of *the Constitution*- these are reasons that justify the limitation of the right to liberty in the context of Article 24 of *the Constitution*.



The objective of bail

5. The overarching objective of bail is to ensure the accused gets their liberty but also attends their trial. However, in granting a bond, the court should ensure that the accused does not prejudice the trial (Muraguri v Republic).

Grounds for objecting bond

6. The prosecution cited one ground on which they opposed bail: i) witness interference.

Interference with witnesses

7. The prosecution alleged the likelihood of interference with prosecution witnesses. Interference with witnesses is an affront to and impeaches the integrity of the trial. Thus, a justifiable reason to limit the right to liberty (R. vs. Patius Gichobi, article 24 of *the Constitution*)
8. See also a work of the court in R. vs. Jaktan Mayende & 3 others, that:

“...In all civilized systems of court, interference with witnesses is a highly potent ground on which the accused may be refused bail. It is a reasonable and justifiable limitation of right to liberty in law in an open and democratic society as a way of safeguarding administration of justice; undoubtedly a cardinal tenet in criminal justice, social justice and the rule of law in general as envisioned by the people of Kenya in the Preamble to *the Constitution* of Kenya 2010.....Threats or improper approaches to witnesses although not visibly manifest, as long as they are aimed at influencing or compromising or terrifying a witness either not to give evidence, or to give skewed evidence, amount to interference with witnesses; an impediment to or perversion of the course of justice...if the interference is aimed at impeding or perverting the course of justice, and if it is so found, it is a justifiable reason to limit the right to liberty of the accused.”

9. However, the specific instances of or likelihood of interference with witnesses must be laid before the court with such succinct detail or evidence as to persuade the court to deny the accused bond (R. vs. Dwight Sagaray & 4 others, 2013 eKLR)
10. PC Enos Mbithi averred that the accused is likely to interfere with crucial witnesses, as the parties from the bereaved family and the accused’s family have reconciled and agreed to solve the matter outside the court. Therefore, the witnesses might fail to attend court after the reconciliation.
11. The pre-bail report dated 03/07/2024 is favourable to the accused person. It recommends that he be released on favourable bond terms.
12. The prosecution submitted that the contents of the agreement drawn by MORACHA & CO ADVOCATES and annexed to the affidavit sworn by PC Enos Mbithi are chilling, given that it has punitive default clauses. The prosecution takes issue with the agreement in so far as it threatens malicious prosecution against state witnesses.
13. The defence responded that there is no agreement.
14. It is not far-fetched or unfounded that the accused person has entered into a reconciliation agreement. Representatives of the victim and the accused person entered into an agreement. The said agreement prohibits witnesses from testifying in the instant case on account of having settled it. According to the



probation officer's report, Joseph Omwamba is the uncle and guardian of the victim. The victim is said to have been an orphan. The said Joseph Omwamba signed the agreement on behalf of the victim.

15. The presence of the accused person amid such crucial witnesses makes such witnesses vulnerable to harm, intimidation, harassment, fear, tampering, blackmail, and abuse by the accused person. It is highly possible that such witnesses may resign out of fear and may not give evidence or give skewed evidence to avert unpleasant repercussions.
16. It is, therefore, appropriate that these victims should be free from harm, intimidation, harassment, fear, tampering, blackmail, and abuse by the accused persons. It is also not lost to the court that the safety of victims is to be considered in determining bond issues.
17. Consequently, the prosecution has proved that the accused is likely to interfere with the witness herein.
18. In light thereof, emphasis is on the court's duty to ensure that the integrity of the trial is not prejudiced by unlawful acts of the accused, such as interference with witnesses. The integrity of the trial guarantees a fair trial (R. vs. Fredrick Ole Leliman & 4 Others, Nairobi Criminal Case No. 57 of 2016 (2016) eKLR and K K K vs. Republic [2017] eKLR).

Conclusion And Orders

19. In conclusion, this court finds there is a compelling reason not to release the accused person on bail. The accused will remain in custody during the hearing of the case. Meanwhile, the crucial witnesses to testify after which bond issues may be revisited. In light thereof, this court directs the hearing of the case to be fast-tracked.
20. Orders accordingly.

DATED, SIGNED, AND DELIVERED AT KILGORIS THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 8TH DAY OF MAY, , 2025.

CHARLES KARIUKI

JUDGE

In The Presence Of:

Court Assistant: Mr.Nyangaresi

