



**Prosecution v Wangechi & 4 others (Criminal Case E005 of 2024)
[2025] KEHC 8997 (KLR) (23 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8997 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E005 OF 2024
LN MUTENDE, J
JUNE 23, 2025**

BETWEEN

PROSECUTION REPUBLIC

AND

GEORGE NDUNG’U WANGECHI 1ST ACCUSED

CLAUDIA WAMBUI WANGUI 2ND ACCUSED

EVELINE KAGENDO MWANIKI 3RD ACCUSED

MARK WAFULA SIMIYU 4TH ACCUSED

KELVIN NDUNG’U WANJIRU 5TH ACCUSED

RULING

1. Mark Wafula Simiyu, 4th Accused and Kelvin Ndungu Wanjiru, 5th Accused, are jointly charged with three others for Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The Accused were granted bond of Kshs 500,000/= with a surety of like sum.
2. Through an application dated 4th April 2025, the applicants seek to be granted an alternative of cash bail or favourable and affordable bond terms.
3. The application is premised on grounds that the Applicants/Accused have been incarcerated for close to one year which shows that the bond terms are extreme, unreasonable and punitive which amount to pretrial detention.
4. That the court in granting bond did not look into their personal circumstances. They are not a flight risk since they have a fixed place of abode within Nyahururu town away from the place where the alleged crime was committed.



5. In support of the application the accused have jointly deponed an affidavit urging that bail terms granted are out of their reach which amounts to denial of bond. That the parents of Mark Wafula Simiyu have a parcel of land they would have used as security but succession is yet to be done and attempts to reach the family and friends to help is futile.
6. For Kelvin Ndungu Wanjiru it is urged that his family neither owns any land nor can find anyone to stand surety for him.
7. That they are not a flight risk hence will turn up for trial if released on bail.
8. The application is not opposed by State/Prosecution save for the prayer that the sum to be imposed following review be reasonable to ensure attendance of court during pendency of trial.
9. An Accused person is presumed innocent until proven guilty. (see Article 50 (2)(a) of *the Constitution*). This is a fundamental principle of law that protects the rights of an Accused person. In appreciating that right, the court granted the accused bond at the outset pursuant to Article 49(1)(h) of *the Constitution*.
10. The Bail and Bond Policy Kenya upholds the need to grant accused persons reasonable bail terms. Reasonable bail terms depend on conditions set and circumstances in relations to the offence. And circumstances under which bond is reviewed include the change of circumstances. In as much as the court will be considering evidence tendered, the accused situations should also be looked at.
11. In *Ferdinand Matano & 8 others v Republic ACEC Misc Application No 12 of 2018* the court stated that;

“It was now a month since the Ruling of June 19, 2018 when the Applicants were granted bond. They were still in prison due to their inability to raise the bail/bond terms. It was not clear what efforts they were to exhibit more than their presence behind bars. Secondly they had displayed their pay slips which the respondent stated was not conclusive proof of one’s financial capability.

The respondent had not produced before the Court the slightest evidence to counter those pay slips. It was expected that the respondent would have produced before it evidence showing that the applicants had moveable and immoveable properties and even cash in bank accounts to disapprove their reliance on pay slips.

Having considered the nature of the charges facing the applicants, their financial capability (drawn from their pay slips, and letters of employment) the applicants had convinced the Court of the need to review the bail/bond terms imposed on them on June 19, 2018.”

12. In considering change of circumstances the court must also consider whether the accused may turn up for trial. Considering the nature of the offence is also key. This is a case of murder, no doubt it is serious.
13. Having all that in mind and considering circumstances of the Accused, I find the application merited. For that reason, I review terms of bond set from Kshs.500,000/- to Kshs.200,000/- with a surety in an even sum or cash bail of Kshs.200,000/-.
14. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 23RD DAY OF JUNE, 2025.

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L.N. MUTENDE



JUDGE

