



**Republic v Kivunza (Criminal Case E055 of 2024)
[2025] KEHC 11323 (KLR) (Crim) (24 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11323 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE E055 OF 2024**

**AM MUTETI, J
JULY 24, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

PETER NZAU KIVUNZA ACCUSED

RULING

1. The accused person in this matter is charged with the offence of murder Contrary to Section 203 as read with 204 of the [Penal Code](#).
2. The Accused person pleaded not guilty to the charge and has applied to be released on Bail pending trial.
3. The accused through counsel told the court that he has a fixed abode and that he is not a flight risk.
4. The state through Ms Timoi state counsel informed the court that the prosecution has not opposed to his released on Bail for there are no compelling reasons to oppose the release of the accused on Bail.
5. Ms Timoi however urged this court to consider the gravity of the offence in setting of bail terms.
6. [The Constitution](#) of Kenya under Article 49(i) (h) provided that an Accused person may be released on Bail pending trial or a charge unless there are compelling reasons to deny bail.
7. The court has been informed by the prosecution that there are no compelling reasons to deny bail thus this court can only embark on the setting of terms and conditions of released.
8. The law provides under Sections 123 and 124 of the [Criminal Procedure Code](#) that bail conditions should be reasonable depending on the circumstances of the case.



9. The primary consideration in setting the bail terms is to ensure that the accused person returns to court for his trial once released on bail. See *Danson Mugunya & Another vs. Rep* (2010) eKLR
10. The personal circumstances of an accused person are also a key consideration in the setting of bail terms.
11. Neither the accused nor the prosecution addressed the court on the personal circumstances of the accused thus this court is not able to determine with precision what would be the most suitable term to impose to meet the sufficiency test under Section 123 of the *Criminal Procedure Code*.
12. The duty of counsel appearing for the parties is to assist the court in assessing what would be reasonable terms in the circumstances of a given case.
13. The role of the court is to ensure that the terms given are suitable to guarantee a return of the accused to face his trial.
14. In the instant matter therefore all that the court has been told has been told is that he is not a flight risk and that he has fixed abode. However, no details were provided.
15. The state urged the court to consider the gravity of the offence which I hereby do and as a consequence order that the accused person shall be released on the following terms and conditions.
16. Bond of Ksh. 1 Million plus one surety of a similar amount.
 - b. The accused person shall provide details of his permanent home and the place he shall reside pending the trial.
 - c. The Accused shall provide the contacts of at least one relative who shall undertake under oath before the Deputy Registrar of this court that he/she shall ensure that the accused person attends court at all times whenever required to do so.
 - d. The area chief of the locality where the accused person resides shall provide a letter to the court confirming that the information provided in relation to the accused person's residence is true and correct.
 - e. The accused person shall prove a mobile telephone contact that he shall maintain in active use throughout the trial.
 - f. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 24TH DAY OF JULY 2025.

A. M. MUTETI

JUDGE

In the presence of:

Court Assistant: Kiptoo

Ms. Timoi for the state

Arum for the Accused

Accused: Present

