



**Republic v Wambua (Criminal Case E009 of 2025)
[2025] KEHC 11364 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11364 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKADARA
CRIMINAL CASE E009 OF 2025**

**J WAKIAGA, J
JULY 15, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOHN KYAMA WAMBUA ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, the particulars of which were that on the 20th day of January 2025 at Kasnova Area of Huruma Estate Starehe Sub County with Nairobi County he murdered Joy Frida Munene.
2. He pleaded not guilty to the charges and in compliance with the provisions of Article 49(1)(h) of the Constitution the prosecution filed an affidavit opposing bail sworn by Cpl Kassim Yakub in which it was deposed that the accused and the deceased were living in a rental room at Kasnova area as husband and wife for a period of one year from the year 2023 and that on the material day the accused came back home at 9.00 am and did not find the deceased at home.
3. When the accused decided to look for her within the estate, he allegedly found her on the road being touched by another man in an inappropriate way and a confrontation ensued between them and when they went back to the house, they allegedly fought causing the deceased to fall down on the floor and did not get up after that.
4. The accused left her in the house and went to work until 6.30 pm when he came back home only to realize that she was dead. He decided to dispose her body by cutting it using kitchen knife and stashing them in the sacks which he threw into the river before he was stopped by the police when some body parts were recovered from him leading to his arrest .
5. It was contended that the accused led the police to his rented house where they found other body parts together with blood stained knife and that the accused has no known form of income and fixed a bode.



- Further it was stated that one prosecution witness who was their landlady is well known to the accused, there was the possibility that if released on bond, the accused would intimidate and instil fear or coerce her not to give evidence.
6. It was deposed further that there was a rise in femicide in the country and therefore the release of the accused would jeopardize community peace
 7. In response, the accused filed a replying affidavit in which it was contended that his grandmother, mother and younger brother were solely dependent on him and therefore his detention will subject them to unnecessary suffering.
 8. He deposed that he had no intention of whatsoever interfering with witnesses and that he was not a flight risk, without any intention whatsoever of relocating from the country. He undertook to attend all the mentions and trial as directed by court without fail.
 9. In compliance with the [Bail and Bond Policy Guidelines](#), the court called for and received the pre-bail report in which it was stated that: the accused father was a primary school teacher, while the mother was a small-scale businesswoman. That the accused had a cordial and close relationship with his family as reflected in the family support. The accused relocated to Nairobi in the year 2021 and in the year 2023, he married the deceased, who was a homemaker.
 10. On the victims concerns, it was stated that the parents separated when she was six years old and that she was largely brought up by well-wishers. She was nineteen years old at the time of her demise. Her mother had been psychologically affected by the death of her first-born daughter and that the accused family had shown remorse and had contributed towards the funeral expenses, she therefore had no objection to the release of the accused on bond.
 11. On community ties, the Area Assistant Chief and Village Elder were familiar with both the accused and the deceased as well as their families and that the accused poses no threat to himself and the public.

Determination

12. Bond is a constitutional right of every accused person under Article 49 and may only be limited if the prosecutions provide to court compelling reasons which the Court of Appeal in [Michael Juma Oyamo & another v R](#) [2019] eKLR stated to be forceful and convincing as to make the court feel strongly that the accused should not be released on bond, thus the accused should not be denied bond on flimsy ground but on real and cogent grounds that meet the constitutional standards.
13. These reasons are captured in section 4.9 of the [Bail and bond Policy Guidelines](#) which were further captured in section 123A (1) of the [Criminal Procedure Code](#)
14. The court however should not lose sight of the fact that the purpose of bond is and remains to secure the attendance of the accused to court during the period of his trial and that the right to liberty should never be curtailed as was stated in [Republic versus Nuseiba Mohamed Haji Osman](#) [2018] eKLR, denial of a constitutional right is not to be treated lightly and any claim made against an accused person towards curtailing his liberty must not be made on speculation and conjectures.
15. In this matter, the prosecution, the prosecution contended that the applicant did not have a fixed abode as he used to stay in a rented house which is not guaranteed and that some other accuse witnesses were known to the accused and were likely to be interfered with.
16. For the State to succeed on the claim of witnesses' interference, the jurisprudence from the Superior Courts is that the same must prove the nature of the interference and the relationship between those witnesses and the accused as was stated in the case of [Dwight Sagara](#).



17. In this matter the State has failed to show how the accused will interfere with the unnamed witnesses save for the fact that the accused was a tenant at her building and that the other witnesses was a caretaker thereat.
18. On the issue of the rise in femicide cases in the country, the prosecution has further failed to satisfy the court that the release of the accused herein will disturb the public order and the nature thereof .
19. I am therefore not satisfied that the prosecution has provided adequate compelling reasons to enable me deny the accused his constitutional right under Article 49(1) (h) and that the prosecution concerns will be addressed by adequate bond terms.
20. Having taken into account the nature of the offence and the circumstances thereof as provided for by the prosecution in the affidavit opposing bail and the pre-bail report, the accused shall be released on bond/bail on the following terms and conditions:
 - a. Bond of Kenya shilling five hundred thousand (Kshs 500,000) with one surety of similar amount
 - b. In the alternative cash bail of Kenya shillings two hundred thousand (Kshs 200,000) with two sureties of similar amount
 - c. During the period of this trial the accused shall make no contact with any of the prosecution witnesses unless the same is done in the presence and with the concurrence of the Investigating Officer.
 - d. The accused shall not go back to his rented house at Kasnova Area of Mathare, save for the purposes of taking away his items therefrom which must be done in the presences of the representative of the deceased family and the Investigating Officer
 - e. The accused at the time of bond approval shall provide his alternative place of abode during the period of trial and shall be reporting to the Assistant Chief of the said area every last Thursday of each subsequent month until the final conclusion of this cause and or as otherwise directed by the court.

DATED SIGNED AND DELIVERD THIS 15TH DAY OF JULY 2025

J. WAKIAGA

JUDGE

