



**Republic v Moriori (Criminal Case E027 of 2025)
[2025] KEHC 11474 (KLR) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11474 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKADARA
CRIMINAL CASE E027 OF 2025**

**J WAKIAGA, J
JULY 10, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

EDWARD MANYANGE MORIORI 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 18th day of January 2025 at jacaranda Area of Kayole Sub County within Nairobi , with others not before court murdered James Kago Wambui.
2. He pleaded not guilty to the charges and in compliance with the provision of Article 49(1) (h) of *the Constitution* , the prosecution filed an affidavit opposing the release of the accused on bond sworn by PC Leah Nzioka in which she deposed that the accused in the company of two other men, went to the deceased grand mother and informed her that they were interested in renting three rooms from her for the purposes of putting up a church and on 18th January 2023 entered into a lease agreement.
3. That the accused together with his accomplices who are still at large expanded the leased space by demolishing an iron sheet wall on the side where the deceased house was and when he resisted the accused and his accomplices hit him with an empty soda bottle and proceeded to make a report to the police and was issued with a P3 form and advised to seek treatment .
4. That the accused later went to the deceased house demanding to know where he had been earlier in the day and an altercation ensued, the accused picked a knife and stabbed the deceased to death in the full glare of his grandmother, who got distraught and feared for her life that the accused and his accomplices were hell bent on eliminating her.
5. That when she learnt that the accused and his accomplices were released on police bond, she suffered a mental breakdown and contemplated taking the matter in her own hands by chasing accused from



- her premises and to her dismay the accused removed his equipment's and established a church a short distance from her premises and that he was still looking for the accused two accomplices
6. In response to the said affidavit , the accused filed a replying affidavit in which it was contended that
 7. In compliance with the bond bail policy guidelines , the court called for pre-bail report in which it was stated that the accused was the son of Jeremiah Tinega and Monica Tinega who were elderly peasant farmers, residing in Nyamira County. The accused has close ties with all family members, who were supportive and willing to ensure his court attendance.
 8. It was stated that the accused was aged 32 years and at the time of the offence was a pastor with Pick Prophetic Ministry in Pipeline Kware and was married with two children aged seven and two years respectively.
 9. On the victims concerns, it was stated that the deceased was aged 24 years, a student at Zetech University , with a very strong bond with his parents who had suffered psychologically the loss of their only son. They opposed the release of the accused citing concerns about their security because the accused resides in close proximity to their residence though he had not been in contact with them.
 10. On community ties the Chief stated that he did not know the accused , the assistant chief and the village elder from the accused rural home, however described him as a person of good standing within the community and had no objection to his release on bond. The accused mother stated that the accused prolonged custody would have financial strain on his family and offered alternative residence at Nyagekovoko village, Nyamosi sub County until the matter is concluded.
 11. It was recommended that based on the accused strong family support , fixed place of abode and guaranteed safety , the accused should be granted bond/bail.
 12. On behalf of the prosecution Ms Ogweny submitted there was likelihood of interference with witnesses including the deceased grandmother whom accused had entered into a tenancy agreement , whose fear is that the accused and members of his church would interfere with her
 13. It was submitted that the accused was likely to be a flight risk, and was likely to join his two accomplices who had not been arrested .
 14. On behalf of the accused, Mr. Ogola submitted that it is the accused who reported the two accomplices to the police and that he had not run away. It was contended that the fear of the accused absconding can be mitigated by an appropriate order of reporting to either the police or court. Since the accused was a pastor , there was no reason for him to run away and that tenancy agreement does not lead to interference.

Determination

15. Bond is a Constitutional Right of every accused person under Article 49 and may only be limited if the prosecutions provided to court compelling reasons which the court of Appeal in Michael Juma Oyamo & Another versus Republic (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, thus the accused should not be denied bond on flimsy grounds but on real and cogent grounds that meet the constitutional standards.
16. Bond and bail policy- The Judiciary bail and bond policy guidelines provides as follows: -
The consideration in determining whether or not to grant bail are set out in Kenya Judiciary bail and bond policy guidelines March 2015 at page 25 which sets out judicial policy on bail as follows: -



* The prosecution shall satisfy the court on a balance of probability of the existence of compelling reasons that justify the denial of bail. The prosecution must, therefore, state the reasons that in its view should persuade the court to deny the accused person bail, including the following: -

- a. That the accused person is likely to fail to attend court proceedings.
- b. That the accused person is likely to commit, or abet the commission of, a serious offence or
- c. That the exception to the right to bail stipulated under Section 123A of the Criminal Procedure Code is applicable in the circumstances: or
- d. That the accused person is likely to endanger the safety of the victims, individuals or the public or
- e. That the accused person is likely to interfere with witnesses or evidence or
- f. That the accused person is likely to endanger national security or
- g. That it is in the public interest to detain the accused person in custody.

17. In this matter, the prosecution has advanced the issue of witness interference but without indicating the nature of the alleged interference and or evidence of any attempted interference as was stated by the court in the case of Republic v Dwight Sagaray [2013] KEHC 3824 (KLR) thus “ For the prosecution to succeed in persuading the court on this criteria however, it must place material before the court which demonstrate actual or perceived interference. It must show the court for example the existence of a threat or threats to witnesses; direct or indirect incriminating communication between the accused and witnesses; close familial relationship between the accused and witnesses among others.

I agree with the holding in Panju Vs Republic [1973] E.A 284, where the court in dismissing the prosecutor’s fear of interference with witnesses stated that before any one can say there would be interference with vital witnesses, at least some facts should be led to the court, otherwise it is asking courts to speculate.”

18. There is no evidence tendered by the prosecution to show that the deceased grandmother is a member of the accused church and that the accused has an influence over her which will lead to a possibility of interference ,the accused has since moved his church away from the premises of the deceased grandmother and there is no evidence of any attempt by the accused and or members of his church to contact the said witness and therefore the allegations thereon by the prosecution is mere speculation , which is not compelling enough to enable the court to deny the accused the enjoyment of his constitutional right .

19. On the issue of the accused being a flight risk, the same has through his affidavit indicated that he is the one who reported his accomplices to the police , this therefore removed the fear of the prosecution that the release of the accused will make it impossible for their arrest, in any event the incidence herein occurred almost three years ago and the prosecution has not given an account as to why the alleged accomplices have not been arrested and therefore accused can not be denied the enjoyment of his constitutional right on an account of the action on the part of the police .

20. By reason of the matters stated herein I find and hold that the prosecution has failed to provide compelling reasons to enable the court deny the accused the enjoyment of his constitutional rights.

21. The accused shall therefore be released on the following terms and conditions :

- a. Bond of Kenya shillings five hundred thousand (Kshs. 500,000) with one surety of similar amount



- b. In the alternative cash bail of Kenya shillings two hundred and fifty thousand (Kshs. 250,000) with two sureties of similar amount
- c. The accused shall report to the investigating office on the case once after every thirty (30) days the first of which shall be set by the DR of this Court while approving sureties and shall report thereto until the final determination of this cause unless ordered otherwise by the court.

DATED SIGNED AND DELIVERED AT MAKADARA THIS 10TH DAY OF JULY 2025

J. WAKIAGA

JUDGE

In the presence of

