



REPUBLIC OF KENYA



**Republic v Muchangi (Criminal Case E023 of 2025)  
[2025] KEHC 11494 (KLR) (8 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11494 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MAKADARA  
CRIMINAL CASE E023 OF 2025**

**J WAKIAGA, J  
JULY 8, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DOMNIC NYAGAH MUCHANGI ..... ACCUSED**

**RULING**

1. The accused is charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*, to which he pleaded not guilty.
2. In compliance with the provisions of Article 49(1)(h) of *the Constitution*, the prosecution filed an affidavit sworn by Sgt Michael Saoko opposing the release of the accused on bond on the grounds that after the commission of the offence the accused switched off his mobile phone and fled from his known place of work at Rikana Stage and at his residence at Bahati Estate, and was on the run till 26th March 2025, when he was arrested following information from members of the public that he had been seen at the stage.
3. It was deposed that the conduct of the accused was meant to obstruct investigations and make it impossible for his arrest, and was therefore a flight risk with a likelihood of not attending court should he be granted bond.
4. In response, the accused filed a replying affidavit in which he deposed that he was aged twenty-two years studying carpentry, with a side job as a conductor while living with his parents and that he had never run away as alleged by the prosecution.
5. He deposed further that he was the only child of his parents and that he was keen on completing his studies and therefore fleeing away would cause immense pain and suffering to his parents, something which he was not willing to bring upon them by running away.



6. In compliance with the bail bond policy guidelines , the court called for pre-bail report in which the following were stated: the father of the accused is the Operation Manager at a Matatu Owners Sacco while the mother is a businesswoman at Gikomba Market. The accused maintains a close-knit relationship with his family who were supportive and willing to ensure that he complies with bond terms.
7. On the victims concerns, it was stated that the deceased was the last-born child aged 40 years, unmarried with no dependents and as at the time of his death was working as a *matatu* driver. The family were opposed to the release of the accused on bond on the grounds that the incidence was still fresh in their minds and the sight of the accused at home would raise emotions and the same might not attend court , considering that he was arrested a year later after the incidence.
8. On community view it was stated that the accused related well with other community members without any criminal history. It was stated that the accused had a fixed residence in Bahati Nairobi and strong ties to his rural home in Embu , where he will stay during the period of trial. It was therefore recommended that the same be released on bond , with a contact person to ensure compliance.

### **Determination**

9. 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.
10. 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*.
11. 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 Mohammed Haji Osman* (2018) eKLR, denial of the 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
12. In this matter the stated submitted that the accused was a flight risk but this was countered by the accused through his replying affidavit and pre-bail report which stated that the same has a strong family ties with an alternative place of abode to take care of the victims family concern of the presence of the accused at the area,
13. I therefore find and hold that the prosecuting has not provided compelling reasons and that those stated by the prosecution can be adequately ring fenced by appropriated terms and conditions.
14. The accused shall therefore be released on bond and bail as follows:
  - A. Bond of Kenya shillings fiver Hundred thousand (Kshs 500,000) together with one surety of similar amount
  - B. In the alternative cash bail of Kenya shillings Two hundred and fifty thousand (Kshs 250,000) together with one surety of similar amount.
  - C. The accused shall make no contact with any of the prosecution witnesses in whatever nature and form during the period of his trial.



**DATED SIGNED AND DELIVERD AT MAKADARA THIS 8<sup>TH</sup> DAY OF JULY 2025**

**J. WAKIAGA**

**JUDGE**

In the presence of:-

Irene – Court Assistant

Ms. Ongweno for the State

Ms. Sitati for the Accused.

