



**Republic v Nahashon (Criminal Case E008 of 2025)
[2025] KEHC 9440 (KLR) (Crim) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9440 (KLR)

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

CRIMINAL

CRIMINAL CASE E008 OF 2025

K KIMONDO, J

JULY 1, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

PC LIMO KIPKOSGEY NAHASHON ACCUSED

RULING

1. The accused prays for bond on reasonable terms pending his trial.
2. His learned counsel, Mr. Wachira, first made the application on 7th April 2025. The application was opposed by the Republic which sought time to lodge a replying affidavit in the course of the day. But it was not filed.
3. That precipitated the filing of a notice of motion dated 17th April 2025 praying for grant of bond on the basis of non-compliance by the State; or, on the ground that there was no objection to bail. It was predicated upon an affidavit sworn by the accused's advocate.
4. The recess duty court (Kavedza J) declined to certify the notice of motion as urgent or to grant the prayers sought ex parte.
5. A deposition opposing bail has since been filed by Inspector of Police Benedict Kaulu dated 17th April 2025. On 23rd April 2025, I granted leave to the accused to file a further reply. The further affidavit by the accused was sworn on 28th April 2025.
6. On 30th April 2025, I heard submissions on the matter. Learned counsel for the accused submitted that there is no evidence showing that the accused has or will interfere with any witness. Regarding the status of a witness, Cpl Phillip Kae, and who suffered gunshot wounds in the incident, counsel



- submitted that Cpl Kae declined to record a statement of his free will and not from any threats by the accused.
7. It was also submitted that the fear of interference or intimidation of the witness is unfounded because he is senior in rank to the accused. Regarding the injuries to the witness, the accused avers that “the mere fact that the witness is hospitalized or reluctant to testify cannot be a lawful basis to deny bail... in the absence of the actual interference or threats from the accused...”.
 8. The accused denies that he fled from the scene or that he is a flight risk. At paragraph 10 of the further affidavit he admits that he “hid under a car, I did not flee as I was attacked by people unknown to me and I had no option but to take cover under the vehicle to protect myself from harm”.
 9. In a synopsis, counsel contended that there are no compelling reasons to deny the motion. He relied on Articles 49 (1) (h) and 50 (2) (a) of the Constitution, and an undertaking by the accused to comply with all the terms for his release.
 10. The Republic on the other hand submitted that the accused is facing a charge of murder of a fellow police officer No. 105774 Eric Munga (hereafter the deceased). It is averred that in the course of the incident, he also shot No. 66324 Cpl Kae, aforementioned and who is still hospitalized at the Agha Khan Hospital.
 11. Counsel stated that the statement from the witness had not been taken “due to his medical and psychological condition” a fact which is contested by counsel for the accused.
 12. It also deposed that the accused fled from the scene while still armed and took cover under a parked car at Gigiri Police Canteen. The action prevented the police from giving quick assistance to the deceased or Cpl Kae and that “it took the concerted efforts of a team of officers...who smoked (sic) the accused person out of his cover using tear gas cannisters”.
 13. The position of the Republic is that the accused is a flight risk, will interfere with witnesses who are well known to him or undermine their confidence “through genuine fear, misapprehension and anxiety”.
 14. I take the following view of the matter. No witnesses have taken to the stand yet. It follows that the accused is presumed innocent at this moment. Under Article 49 (1) (h) of the Constitution, as read together with section 123 A (1) of the Criminal Procedure Code, he is entitled to bail unless there be compelling circumstances.
 15. Regarding the phrase, compelling reasons, I am well guided by the decision of Gikonyo J in Republic v Joktan Mayende & 3 others, High Court, Bungoma Criminal Case 55 of 2009 [2012] eKLR where the learned judge stated-

But more light is shed by the Black’s Law Dictionary 7th Edition. And accordingly, the phrase compelling reasons would denote reasons that are forceful and convincing as to make the court feel very strongly that the accused should not be released on bond. Bail should not therefore be denied on flimsy grounds but on real and cogent grounds that meet the high standard set by the Constitution.
 16. The overarching objective of bail is to ensure the accused attends trial. See Michael Juma Oyamo & another v Republic Court of Appeal at Nairobi, Criminal Appeal 113 of 2018 [2019] eKLR; Muraguri v Republic [1989] KLR 181; R v Fredrick Ole Leliman & 4 others, Nairobi High Court Criminal Case 57 of 2016 [2016] eKLR.
 17. When I juxtapose those principles against the materials before the court, I find as follows. Firstly, the accused faces the grave charge of murder. The Director of Public Prosecutions informs the High Court



that on the 9th March 2025 at Gigiri Police Station, Westlands Sub-County within Nairobi County he murdered the deceased.

18. Secondly, I cannot shut my eyes to the averment that another police officer, Cpl Phillip Kae suffered serious gunshot wounds in the incident and remains hospitalized. I am however not satisfied that his failure to record a statement is borne out of a direct or indirect threat from the accused. The point to be made however is that he is a fragile witness in this trial. The mere fact that he is a corporal and hence senior to the accused cannot be reassuring in the circumstances.
19. Thirdly, the homicide occurred at the Police Canteen at Gigiri Police Station. The deceased and the injured witness are police officers. From the deposition by Inspector of Police Benedict Kaulu, I am satisfied that a number of witnesses will be officers who used to work with the accused. The likelihood of interference with evidence or the witnesses is thus not far-fetched.
20. Fourthly, my reading of the rival versions of depositions shows that the accused, while still armed, hid under a car and that it took considerable time to arrest him. The accused admits that after the incident, he “hid under a car, I did not flee as I was attacked by people unknown to me and I had no option but to take cover under the vehicle to protect myself from harm”.
21. The version by the investigating officer is that “it took the concerted efforts of a team of officers....who smoked (sic) the accused person out of his cover using tear gas cannisters”.
22. I am thus satisfied that the accused may not have fled far from the scene. But he did not also surrender to the police. I say that very carefully as these are mere allegations at this stage based on affidavit evidence.
23. On the totality of the materials in the deposition filed by the Republic, and based on admissions by the accused above, I thus find that the likelihood to abscond is high. Paraphrased, the attendance of the accused at his trial has been cast into some doubt.
24. The upshot is that there are strong and compelling reasons for denial of bail. I accordingly decline to grant bail at this stage. However, in the interests of justice, I direct that that this trial shall be fast-tracked.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 1ST DAY OF JULY 2025.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of-

Accused.

Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. Wachira & Mr. Nthei for the accused instructed by Wachira & Mumbi Advocates.

Mr. E. Ombuna, Court Assistant.

