



REPUBLIC OF KENYA



**Wanjira v Republic (Criminal Case E030 of 2022)
[2025] KEHC 9565 (KLR) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9565 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE E030 OF 2022**

TW OUYA, J

JULY 3, 2025

BETWEEN

JAMES MAINA WANJIRA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The accused, James Maina Wanjira, is charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. It is alleged that on the night of 23rd and 24th October 2022 at around 2200hrs at Ngurweini Village, Murang'a County, the Applicant murdered Pauline Wanjiku Kinuthia.
2. On 9th October 2022 the accused was arraigned before the Court and he denied the charges. The accused filed a Chamber Summons Application for bond/bail pending trial anchored under Articles 49(1) (h), 48, 159 and 165 of *the Constitution* of Kenya. The accused further relied on the bail/bond policy guidelines to anchor the argument that he is a right to be released on bail/bond on reasonable terms and conditions as stipulated by the Court pending the hearing of the matter.
3. On 2nd April 2025 the Court directed the Probation Officer, Murang'a County Office to prepare a pre-bail report in respect of the accused person. Consequently, the Probation Officer, Murang'a County Office (Esther W. Maina) filed a pre-bail report dated 5th May 2025 before the Court on even date, wherein it is stated that the accused has been in remand for about three (3) years and is currently aged 23 years. Furthermore, the accused is single, has no dependent and is known to abuse alcohol and cannabis sativa (bhang).
4. Further, in the pre-bail report dated 5th May 2025 it is noted that the accused's extended relatives gave conflicting information regarding the accused's fixed place of abode and life history. In view of the



foregoing, the Probation Officer recommended that the accused be granted bail with conditions of two contact persons as he is suspected of being a flight risk.

5. In the instant Application, both the local Chief and the Assistant Chief of Ngurweini Location of Kandara sub-County in Murang'a County where the offence took place stated that the accused, if granted bail, may not adhere to the provisions of the bail terms if granted as the accused's mother relocated from Kagira Village, Ngurweini Location following the commission of the offence in question and they were not aware of her current residential area.
6. Furthermore, the victim's relatives who reside in Kagira village, Ngurweini location of Murang'a County felt that they would be unsafe if the accused were released on bail because they are witnesses in the subject suit.
7. Having considered the application, the affidavits sworn in support and the Bail Information Assessment Report dated 5th May 2025 on record, this Court adopts the following view of the matter:
8. The right to bail or bond pending trial is a constitutional right of every arrested or accused person which is protected in Article 49 (1) (h) of *the Constitution* of Kenya which provides as follows;

“An arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”
9. From the above provision, it is clear that the right to bail or bond is not absolute and the same can be denied if the prosecution established compelling reasons warranting denial of bail or bond.
10. The meaning and import of the phrase “compelling reasons” was outlined by the Court of Appeal in the case of Michael Juma Oyamo & another Versus Republic (2019) eKLR where the Court cited with approval the High Court decision in Republic versus Joktan Malende and 3 Others Criminal Case No. 55 of 2009 as follows:

“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 standards set by *the Constitution*.”
11. The Bail Information Assessment Report dated 5th May 2025, the accused's mother stated that prior to the accused's arrest, he was living with his friend in a rented house located in Dagorreti Area of Nairobi County while his mother, was residing in Kagira Village, Ngurweini Location of Murang'a County, the scene of the crime in question.
12. It is noteworthy that the accused's mother relocated from Kagira Village, Ngurweini location of Murang'a County following the accused's arrest and is currently living with a relative in Joska estate located along Thika Road.
13. Flowing from the foregoing, the Court is satisfied that compelling reasons exist in this case against the admission of the accused person to bond pending trial.
14. The Court is persuaded that the accused has no known fixed place of abode. Further, the accused was not residing with his mother at the time of the commission of the offence for which he is on trial. In this event, there is no guarantee that the accused will move in with his mother if released on bail.
15. It is also noteworthy that, according to the Bail Information Assessment Report dated 5th May 2025, the accused was brought up in several estates within Nairobi area especially Makongeni and Kayole



areas. In the premises, the Court is persuaded that the accused is a likely flight risk being already quite familiar with Makongeni and Kayole areas where he was brought up as well as the Dagorreti area of Nairobi wherein he was residing prior to the commission of the offence in question.

16. The Court also takes to account the conflicting information provided by the accused's relatives regarding his fixed place of abode and takes the view that the accused's whereabouts are likely to prove difficult to monitor if released on bail/bond.
17. In view of the foregoing, the Court holds and finds that compelling reasons have been presented before it justifying the decision not to release the accused on bail/bond pending trial.
18. Accordingly, the subject application is found unmerited and is hereby dismissed. The accused to remain in custody awaiting trial.

DATED, SIGNED AND DELIVERED PHYSICALLY IN OPEN COURT THIS 03RD JULY, 2025.

HON. T. W. OUYA

JUDGE

For Accused.....Dennis Maina

For State.....Ms Manyal

Court Assistant.....Brian

