



**Republic v Njoroge (Criminal Case 20 of 2020)  
[2024] KEHC 10661 (KLR) (7 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 10661 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE 20 OF 2020  
DO CHEPKWONY, J  
JUNE 7, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SAMUEL GITAU NJOROGE ..... ACCUSED**

**RULING**

1. What is before this court for determination is the Notice of Motion Application dated 7<sup>th</sup> November, 2023 which seeks the following orders:
  - a. Spent
  - b. That the Honourable court be pleased to review downwards the ruling on application for bail/ bond that was delivered on 27<sup>th</sup> day of October, 2022.
  - c. That the Honourable court be pleased to lower the bond terms against the accused/applicant.
  - d. That the Honourable court be pleased to issue any further and or better orders as may meet the ends of justice herein.
2. The Application is based on the grounds as set out on its face wherein it has been stated that in a ruling of 27<sup>th</sup> October, 2022, the court delivered a ruling on the accused person’s on bail and granted a cash bail of Kshs. 2,000,000/= which the accused has been unable to pay as a result of his incarceration since the scene is excessive. He urges that the court reviews the bond terms by reducing it to affordable levels.
3. In response, the prosecution has indicated that it will not file any document but will instead rely on the recommendations in the pre-bail report as filed.
4. This being the case, the court is now called upon to determine whether or not to review the bail/bond terms and proceeded to call for a bail information report which was filed on 16<sup>th</sup> January, 2024.



5. Upon reading through the pre-bail information report, this court finds that in compiling the said report, the Probation Officer indicated that in conducting a social inquiry, it considered the accused's family circumstances, accused person's circumstances and means, drugs and substances, previous adherence to bond/licence terms, seriousness of the offence, victim's concerns, community ties, bail sureties and securities and conclusion to come up with recommendations.
6. It was then concluded that the accused is a 28-year single man who prior to his arrest was working as a casual labourer in Limuru. That he prays to be released on bond terms of Kshs. 500,000/= since his family is unable to raise Kshs. 2,000,000/=. It is also noted that his uncle, Marima Ole Lilau has promised to stand as his surety by depositing a title deed of his land in Narok and that the accused will reside with him in Nanyuki.
7. It is further stated that the local administration and community hold that the accused and his family are law abiding citizens and that they have healed from the tragic event hence are not opposed to him being released on bond. However, the victim's family are said to be opposed to the release of the accused person.
8. It is the Probation Officer's recommendation that the accused has a strong social support system so that if granted the bail terms he has proposed, he will reside in Nanyuki and therefore the accused is suitable for release on lenient bond/bail terms.

### **Determination**

9. Having read through the affidavit in support of the application and the pre-bail information report dated 17<sup>th</sup> January, 2024, I find the only issue for determination is whether the bond terms granted for the accused were excessive.
10. As provided under Section 123 of the *Criminal Procedure Code*, the power to grant bond and set terms thereof is discretionary for any Judge or Magistrate, and which power cannot be interfered with unless it is shown that the bond terms were either too excessive or inordinately low or unreasonable.
11. It is trite that the purpose of bail and bond is to secure the attendance of the accused person to court in accordance to the *Bail and Bond Policy Guidelines*, restated as general guidelines at Paragraph 4.9 that:

“In terms of substance, the primary factor considered by the courts in bail decision – making is whether the accused person will appear for trial if granted bail. A particular challenge the courts face since the promulgation of the Constitution of 2010 is determining the existence of compelling reasons for denying an accused person bail, particularly in serious offences”.
12. In this case, the court has considered the amount of bond that was granted to the accused and the period the accused has been in custody since the grant of the same. The Court finds that the bond of Kshs. 2,000,000/= is excessive, to the extent that the accused has been unable to raise the same. In view of this, the court proceeds to review the bond terms issued on 27<sup>th</sup> October, 2022 and substitutes the bond of Kshs. 2,000,000.00 with a sum of Kshs. 500,000.00. All other terms to remain the same.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 7TH DAY OF JUNE, 2024.**

**D.O CHEPKWONY**

**JUDGE**



In the presence of:

Mr. Gacharia for State

M/s. Mwonya Counsel for Accused

Martin - Court Assistant

