



**Republic v Muthamia (Criminal Case 018 of 2024)  
[2024] KEHC 10090 (KLR) (Crim) (6 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10090 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL CASE 018 OF 2024  
LN MUTENDE, J  
AUGUST 6, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ALEX BUNDI MUTHAMIA ..... ACCUSED**

**RULING**

1. Alex Bundi Muthamia, the accused, was charged with murder of Jackson Kasee Mulaya stated to have occurred on the night of 24<sup>th</sup> and 25<sup>th</sup> January, 2024 at Kyangombe area in Embakasi Sub-County within Nairobi County.
2. Heaving denied the information presented by the State the accused seeks to be released on bail pending trial as provided by law.
3. The application is opposed by the State as per the replying affidavit deposed by No.95009 Pc Todd Achola of DCI Embakasi, on the grounds that the accused does not have a place of abode and that he declined to give particulars of his rural home. He also did not have a verifiable source of income and a family of his own. He resided in a rental house at Pipeline which was repossessed by the owner after he was arrested. That he has been charged jointly with others who are still at large. That he did not cooperate with the investigating officers and his release will scuttle efforts of tracing and arresting his 2 accomplices.
4. A social inquiry was carried out and a pre-bail report filed. It was established that the accused is the fourth born in his family, his father passed on but his mother is still alive and currently trades in second hand clothes in Nairobi and Meru. They pray for reasonable bond terms. His relatives are willing to mobilize resources to post bail and also assist him honour the conditions to be set by the court.



5. The accused has three children aged between five years and eleven months. His wife relocated to Muranga, her maiden home. He had worked at Lunar park in the year 2018. Although it was alleged that the accused was also working at Galana developers and resided at Utawala since 2020; Galana developers/ Company located at Ruai denied knowing the accused and indicated that he used to visit a friend at the company. The accused mother is however willing to be listed as a contact person.
6. The community views were that his place of abode is not known, they dispute that he was working at Galana and that it is his friend who was working there.
7. The deceased was 19 years old from a single parent household. The family is devastated and burial expenses overwhelmed them. They oppose to the accused release and state that the accused residence is unknown.
8. The application was canvassed through oral submissions whereby the accused prays for lenient bond terms. he submits that he is a family man and that he is a casual laborer who cooperated with officers. He undertook not to interfere with witnesses.
9. The prosecution reiterated that the accused does not have a fixed abode, his accomplices are still at large, and, the fact that he is a breadwinner is not sufficient.
10. The accused further submissions are that he is entitled to benefit from the presumption of innocence and that he identified 2 suspects to be charged but the police failed to apprehend them.
11. I have considered rival arguments. The accused right to bail is a dignified and inalienable right guaranteed under the Constitution. The court is enjoined to protect, preserve and enforce this right. The right to bail can only be limited where the prosecution adduces compelling reasons requiring the accused being incarcerated. The grounds must be forceful, strong and convincing to the court that the circumstances do not favour the accused application. (See Republic -Vs- Joktan Mayende & 4 Others Bungoma High Court Criminal Case No. 55 of 2009 where the court defined the term “compelling reasons” thus:

“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.”)
12. The prosecution has stated that the accused does not have a place of abode, the accused mother resides at Meru and is willing to be the contact person. The accused relatives are also willing to assist him comply. This may be addressed by conditions to be set by the court. The main objective of bail is to enable the accused attend court, the fact that he does not have a place of abode, a definite source of employment or permanent residence should not interfere with the accused right.
13. However, the averment of the prosecution suggests that they have made headway in the endeavor to arrest two other suspects, the accomplices of the accused, but, if he is released he will scuttle the efforts/ steps made so far. It is the accused argument that he did point out the individuals but the police did not act.
14. This being the case, the application for bond is declined at this stage so that there is no interference by the accused to enable the State complete investigations. For that reason, the application will be re-considered in two (2) months’ time.
15. It is so ordered.



DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT  
NAIROBI, THIS 6<sup>TH</sup> DAY OF AUGUST, 2024.

L. N. MUTENDE

JUDGE

