



**Republic v Kwamboka (Criminal Case E032 of 2024)  
[2024] KEHC 10760 (KLR) (Crim) (19 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10760 (KLR)

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

**CRIMINAL  
CRIMINAL CASE E032 OF 2024**

**K KIMONDO, J  
SEPTEMBER 19, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ZAINAB KWAMBOKA ..... ACCUSED**

**RULING**

1. On 26<sup>th</sup> July 2024, learned counsel for the accused, Mr. Mwale, made an oral application for bail. The application was opposed by the Republic.
2. He submitted that bail is guaranteed by Article 49 (1) (h) of *the Constitution*; and, that the prosecution has failed to demonstrate any compelling reasons for its denial. He argued further that there is no sound basis for assertions by the Republic that the accused will interfere with the evidence of her minor daughter who is a potential witness.
3. The primary objection by the prosecution is that the accused’s 11-year-old daughter, S. T. [particulars withheld] is a key witness to the homicide. In addition, the safety of the accused would not be guaranteed at this stage. Reliance was made on the affidavit sworn by PC Mark Mulinge on 23<sup>rd</sup> May 2024.
4. I take the following view of the matter. The accused faces the grave charge of murder. The Director of Public Prosecutions informs the High Court that on the 10<sup>th</sup> March 2024 at Fuata Nyayo slums, South B, in Makadara Sub-County within Nairobi County she murdered James Mwangi Mugo.
5. Those remain allegations; and the accused is presumed innocent. Under Article 49 (1) (h) of *the Constitution*, she is entitled to bail unless there be compelling circumstances.



6. The overarching objective of bail is to ensure that the accused attends trial. See *Muraguri v Republic* [1989] KLR 181; *Michael Juma Oyamo & another v Republic* [supra]; *Muraguri v Republic* [1989] KLR 181; *R v Fredrick Ole Leliman & 4 others*, Nairobi High Court Criminal Case 57 of 2016 [2016] eKLR.
7. From the affidavit of the investigating officer, the accused and the deceased were married. The alleged homicide occurred at their residence. The minor, who was in the house, is a State witness. He also avers that the accused was only saved by the police from a lynch mob and they took her to Mbagathi Hospital for treatment. It bears repeating that all those remain allegations for now.
8. Granted those unique circumstances of the case, I readily find that the minor remains a vulnerable key witness; and, that the likelihood of interference by the accused is not far-fetched. Secondly, it is not contested that the accused was beaten up by irate members of the public before she was rescued by the police. Considering the recent date of the incident, her security cannot be fully guaranteed.
9. All those are compelling reasons for denial of bail. Bail is refused at this stage. I however direct that in the interests of justice, this trial shall be fast-tracked.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 19<sup>TH</sup> DAY OF SEPTEMBER 2024.**

**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. Mwale for the accused.

Mr. E. Ombuna, Court Assistant.

