



**Ndungo alias Munyendi v Republic (Criminal Case E008 of 2023)  
[2024] KEHC 16744 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 16744 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CRIMINAL CASE E008 OF 2023  
NIO ADAGI, J  
OCTOBER 17, 2024**

**BETWEEN**

**DAVID MUTISYA NDUNGE ALIAS MUNYENDI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant, David Mutisya Ndunge alias Munyendi, faces a charge of Murder contrary to Section 203 as read with section 204 of the *Penal Code*. The particulars of the offence are that the Applicant on 3rd day of February 2023 at Muti Umwe village, Kaliambeu sub location of Muthethei location, Mwala Sub-County, within Machakos County, murdered Mary Mueni Mulembi. When he was arraigned before the court on 9th April 2024 for plea taking, he denied the charges and his learned counsel Mr. Nagwere, immediately made an oral application for him to be admitted to bail or bond on reasonable terms pending the hearing and determination of his case.
2. The application was not opposed by the State and the court ordered that the probation department prepares a Pre-bail report of the Applicant.
3. The pre-bail report filed on 17th July 2024, describes the accused as a hard-working person who usually led a quite life. That the murder incident shocked his family who are yet to understand the reason behind it. The Applicant has been engaged in farm casual jobs within his local home since the year 2009 up to the time of his arrest. He is a single man, but has earlier cohabited with two ladies at different times but separated in 2018 and 2022 respectively. The Applicant is a Christian who attended Salvation Army Church where he once served as a Sunday school teacher. He reported to be of good health and no disability was observed. He smokes cannabis sativa daily for pleasure.
4. The accused has no history of previous bond or bail.



5. The accused is willing to adhere to all the provisions of bail/bond. The accused's nuclear family members are willing to secure bond for him using their family land title deed registered in their grandmother's name.
6. From the report, the victim and the accused are close family members. The victim was a maternal aunt to the Applicant and were dwelling closely in the same family land. The victim's family oppose the release of the accused on bail/bond for fear that he is a threat to them and the community at large.
7. Article 49(1) (h) of the Constitution of Kenya provides that 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. No compelling reasons have been shown in this case.
8. The purpose of a pre-bail report is intended to inform the court circumstances that relate to the offence and guide in determining whether to release an accused person on bond and under what terms.
9. The local administration also had fears of accused's security. The issue has not been raised of late. His family has promised to protect and support him if released and ensure he attends court when required. I see no reason to deny the applicant bond. I proceed to release him on bond on conditions set out under final orders below.
10. Final Orders:
  - i. The Applicant will be released upon signing bond of Kshs.500,000/= to be approved by the Deputy Registrar of this Court.
  - ii. Once released, the Applicant shall attend the Deputy Registrar once every two months until further orders of this court and shall also attend the court on all hearing dates without fail.
  - iii. Failure to comply with the above condition shall lead to cancellation of the applicant's bond.

It is so ordered.

**DATED, SIGNED & DELIVERED AT MACHAKOS THIS 17TH OCTBER 2024.**

**NOEL I. ADAGI**

**JUDGE**

