



**Republic v Munyoki (Criminal Case 063 of 2022)  
[2023] KEHC 76 (KLR) (Crim) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 76 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL CASE 063 OF 2022  
LN MUTENDE, J  
JANUARY 18, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**MARTIN MULINGWA MUNYOKI ..... ACCUSED**

**RULING**

1. Martin Mulingwa Munyoki, the accused, was arraigned in court following allegations of having committed murder contrary to section 203 as read with section 204 of the *Penal Code*. He seeks to be released on bond following grounds that there are no compelling reasons as to why he should not be released on bond as he will not interfere with witnesses. That it is in the interest of justice that he be released on bond.
2. The application is supported by an affidavit deposed by the applicant/accused who depones that he is 29 years old, a student at Kabete National Polytechnic, and at the time of arrest he was engaged in part time menial work at a construction site to supplement the money he used to receive from parents. He therefore seeks to be released on bail so as to resume his studies.
3. In response thereto the State (respondent) urged that there were no compelling reasons to deter the accused from being released on bond. However, a Pre-bail Report filed indicates that the family of the deceased does not support release of the accused on bail as the matter is still fresh in their mind.
4. The court has a constitutional duty to balance the rights of all people including the victim and the life that was lost under Article 26 of the *Constitution*.
5. The basic factor of granting bail is to secure the accused person's court attendance and not to punish him before he is proven guilty. I note seriousness of the offence, but, also community views where the



accused is described as a good person who readily avails himself especially in respect of construction skills. I must, therefore, balance between the rights of the accused and justice, and, also what is provided by the Constitution.

6. The accused person is alleged to have committed a felony. Article 49 (1)(h) of the Constitution provides that:

An arrested person has the right—

(h) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.

11. The afore stated provision of the law gives the court the discretion to determine whether or not to grant bail. In that regard, I note that although bail is an accused person's constitutional right, it is not absolute. But, in the instant case the prosecution having indicated that there are no compelling reason warranting the accused being denied bail, I therefore, grant the accused bond of Ksh 500,000/- with a surety of a similar sum.

12. It is so ordered.

**DATED, SIGNED AND DELIVERED BY**

**HON. LADY JUSTICE L. N. MUTENDE, THIS 18<sup>TH</sup> DAY OF JANUARY, 2023.**

**L. N. MUTENDE**

**JUDGE**

