



REPUBLIC OF KENYA



**Mwangi v Republic (Criminal Case E022 of 2022)
[2023] KEHC 583 (KLR) (2 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 583 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E022 OF 2022
RB NGETICH, J
FEBRUARY 2, 2023**

BETWEEN

BONFACE KURIA MWANGI ACCUSED

AND

REPUBLIC PROSECUTOR

RULING

1. The accused was charged with the offence of Murder Contrary to Section 203 as read with section 204 of the *Penal Code* (cap 63), Laws of Kenya. Particulars are that on the night of 28th day of April 2022 at Mt. Kenya area, Githurai 45 in Githurai Sub-County, within Kiambu County, the accused murdered one Moses Machoki Maisiba.
2. The charge was read over and explained to the accused on July 12, 2022. He pleaded not guilty and a plea of not guilty was entered.
3. The accused through his lawyer Ms. Sinana filed Application dated January 14, 2023 seeking reasonable bail/ bond terms pending the hearing and determination of the case.
4. The application is supported by the affidavit of the accused who disposes that he has been in custody since he was arrested on June 9, 2022, he is not a risk flight and if released on bond, he is willing to abide by the conditions set by the court.
5. Ms. Ngesa the state counsel informed the court that she was not opposed to the accused being granted bail.
6. Pre-bail report was filed on November 30, 2022. From the report, the neighbors of the accused describe him as a drug abuser which affected his behavior. They are of the view that the accused should not be released on bond. The report describes the accused as a family man with good physical and psychological health who occasionally drinks alcohol and abuses bhang.



7. The victim's family is opposed to the accused person being granted bail. They state that the accused is a flight risk who will interfere with the witnesses who are neighbors and well known to him. They stated that they are devastated by the loss of their son.
8. I have considered the issues raised. There is no doubt that every accused person is entitled to be released on reasonable bail terms unless there are compelling reasons as enshrined under article 49 (1) (h) of the *Constitution* of Kenya 2010.
9. The purpose of bail and bond terms is to ensure therefore, that the accused attends the trial. The court is required to balance the right of an accused person and the interest of justice for the victim's family while considering whether to release the accused on bond.
10. I note that the accused has informed the court that he will abide by the bail conditions that will be set. From the pre-bail report, the accused's father is willing to stand as surety for the accused person.
11. According to the bail and bond policy guidelines, bail or bond conditions should be proportionate to the offence committed and the court has to consider the personal circumstances of the accused person and balance with interest of victim/victim's family.
12. The purpose of bond is to ensure that accused attends court when required and court has to ensure case proceeds without interference.
13. There are no compelling reasons that have been advanced by the state to warrant denying accused bond. From the foregoing, I do allow the application dated January 14, 2023.

FINAL ORDERS:-

14. The accused is released on a bond of Kshs. 500,000/= with a surety of a similar amount.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 2ND DAY OF FEBRUARY, 2023.

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RACHEL NGETICH

JUDGE

In the presence of:-

Martin – Court Assistant

Ms. Nyakiana holding brief for family of victim

Ms. Ngesa for State

No appearance for Accused

