



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Njeri (Criminal Case E015 of 2022)  
[2023] KEHC 723 (KLR) (9 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 723 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE E015 OF 2022  
RB NGETICH, J  
FEBRUARY 9, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**STEPHEN MACHARIA NJERI ALIAS GACHARI ALIAS ALEX ..... ACCUSED**

**RULING**

1. The accused herein Stephen Macharia Njeri alias Gachari alias Alex was charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars are that on May 10, 2022 at West View Estate in Juja Sub-county within Kiambu County, murdered Gerald Gachugu Gichuhi. He was arraigned in court on May 31, 2022 and pleaded not guilty.
2. Mr Gacharia the Prosecution Counsel was not opposed to the accused being granted bail/bond but urged the court to call for a pre-bail report.
3. Mr Njoroge counsel for the victim's family was opposed to the accused being released on bail/bond and filed an affidavit sworn by Ruth Nduguti Gichuhi on November 4, 2022. She deposes that the accused has no fixed abode and he is a flight risk; that the deceased lived and worked for the accused before his arrest. She is apprehensive that if the accused is released on bond/bail he will escape trial since very little is known of him or his family.
4. Ms Ngesa the Prosecution Counsel relied on the affidavit of Ruth Nduguti Gichuhi to oppose the accused being released on bail/bond.
5. The release of an accused on bond/bail is a constitutional right which is denied if there are compelling reasons as enshrined under Article 49(h) of the [Constitution](#).



6. In the *Bail and Bond Policy Guidelines*, Paragraph 4.9 states as follows: -

“In terms of substance, the primary factor considered by the courts in bail decision-making is whether the accused person will appear for trial if granted bail. A particular challenge the courts face since the promulgation of the *Constitution* of 2010 is determining the existence of compelling reasons for denying an accused person bail, particularly in serious offences.”

7. The pre-bail report was filed on July 14, 2022. From the report, the local administration described the accused as a law-abiding citizen with no previous criminal records. The accused was living with the deceased having been accommodated by the deceased from the year 2014, until his arrest.

8. The primary reason for the release of an accused person on a bond is to ensure that he attends the trial. Where compelling reasons exist, an accused person may be denied bail/bond. The prosecution through the affidavit filed by the Victim’s family has demonstrated that the accused lived with the deceased; that he has no fixed abode and he may be a flight risk if released on bond/bail. The accused has not demonstrated to the court that he has a fixed place of abode.

9. In view of the fact that the accused has no fixed abode, there are high chances that it may be difficult to trace him in the event that he fails to attend court.

10.

**Final Orders:-**

1. Application for bond is hereby declined.
2. The accused is to remain in custody during the trial.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 9<sup>TH</sup> DAY OF FEBRUARY, 2023**

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

**Martin - Court Assistant**

**Ms. Ngesa for State**

**Mr. Njoroge holding brief for family of deceased**

**Ms. Okwiri for Accused**

**Accused – Present**

