



**Wario v Republic (Criminal Case E018 of 2023)  
[2023] KEHC 17730 (KLR) (18 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17730 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL CASE E018 OF 2023  
EM MURIITHI, J  
MAY 18, 2023**

**BETWEEN**

**SOMO DALACHA WARIO ALIAS SIMBA ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The court has considered the prosecution’s Affidavit in opposition of bail sworn by No 7672 Joseph Kibet on February 21, 2023.
2. The Court has also considered the Affidavit of the Accused Applicant Somo Dalacha Wario Alias Simba sworn on April 24,2023 in support of this application for bail pending trial.
3. The Applicant’s Affidavit apart from setting out the Constitutional right to bail under Article 49 only states that “ I am an herder and I live with my sister Zainab Dalacha at her family who shall stand surety for me and when called upon I can attend and without fail”.
4. The Prosecution’s Affidavit in opposition to bail raises three principal grounds for opposing bail that the applicant is a herder with no fixed abode; likelihood of interference with witness/deceased family members (which counsel for the deceased family supports); and the investigation and connection with other offences of robbery with violence and possession of a fire arm and ammunitions, the ballistic examinations and investigations on which is still on going.
5. The Court considers that the ability of the prosecution to effecting prosecution for offences should not be unduly tampered by orders of the court which impede investigations and or permit the interference with evidence or witnesses of the prosecution, or make it impossible to complete the prosecution upon absconding of an accused who is a clear flight risk.



6. While the court does not find that the accused's circumstances are a flight risks, the likelihood of interference with witnesses and the pending investigations of the ballistic examination of the gun allegedly received from the accused together with the round of ammunitions, which may result in other offences being preferred (and giving incentive for the accused's absconding) present compelling grounds within meaning of Article 49(1) (h) of the Constitution Bail is consequently denied.
7. Applicant may seek re-consideration of the issue of his bail at a later stage of the proceedings, in case of changed circumstances where crucial witnesses have testified and ongoing ballistic investigations completed.

Order accordingly.

**DATED AND DELIVERED THIS 18<sup>TH</sup> DAY OF MAY, 2023.**

**EDWARD M. MURIITHI**

**JUDGE**

**APPEARANCES:**

Mr. Igweta Advocate for Deceased's family.

Mr. Masila for Dpp

Ms. Thuo Advocate for Accused.

