



REPUBLIC OF KENYA



**Republic v Kariuki (Criminal Case E026 of 2022)
[2023] KEHC 18952 (KLR) (22 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18952 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E026 OF 2022
PM MULWA, J
JUNE 22, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

MONICAH WAITHERA KARIUKI ACCUSED

RULING

1. The accused persons herein Monicah Waithera Kariuki seeks to be released on bond/bail pending trial. She was charged with the offense of Murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars are that the accused person, on the 24th day of June 2022 at Gathwariga Village in Lari Sub-County within Kiambu County, jointly with others not before court murdered one Joseph Kariuki Mungai.
2. A mental assessment test was conducted on November 8, 2022 and the accused person was found fit to plead. She took plea on February 7, 2023 and denied the charge. A plea of not guilty was entered.
3. Ms Sinana counsel for the accused urged the court to admit her on bond.
4. Ms Ngesa the state counsel informed the court that the state was not opposed to the release of the accused persons on bail/bond. The court called for a pre-bail report to assist in determining bond terms.
5. The pre-bail report was filed on May 10, 2023. The accused person is described by her close family as a loving person but might be having mental health problems in view of her criminal behaviour.
6. The local administrators are opposed to the release of the accused persons on bond/bail. They state that her life may be at risk. That she is lucky to be alive after she was rescued by security officers from an irate mob during her arrest.



7. According to the report the accused is a 56-year-old lady, wife and mother of 10 children who are grown up and independent. And that her brother is ready to stand surety for her if she is granted bail.
8. Article 49(1)(h) of the *Constitution* provides that an arrested person has a 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. This right is not absolute the court is vested with the discretion to weigh all the circumstances of each case and decide on whether to grant or deny a bond.
9. In the pre-bail report, the local administration has expressed the fear that there is a possibility of the accused person being at risk because during the arrest an irate mob almost lynched her. The family of the victim also exhibit fear that they may be denied justice if accused is released on bond. The accused person's husband said that releasing her in the community might be a threat to her life as the villagers may not embrace her.
10. The court is of the considered view that though the issues raised in the pre-bail report do not favour the admission of the accused person to bond/bail pending trial, in the instant case the prosecution is not opposed to the accused being released on bond/bail and there are no compelling reasons that have been advanced.
11. In the circumstances the court will grant the bail/bond application by the accused person but with the necessary safeguards as to the terms thereof.

Final Orders: -

12. Accused person is admitted to a bond of Kshs 500,000/- with one surety of a similar amount. She is not to interfere with witnesses.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 22ND DAY OF JUNE, 2023.

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P.M. MULWA

JUDGE

In the Presence of:

Kinyua/Duale – Court Assistants

Accused - Present

Mr. Muriuki - for State

N/A by Advocate for Accused

