



**Republic v Wanjiru & another (Criminal Case 028 of 2022)
[2023] KEHC 18507 (KLR) (15 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18507 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE 028 OF 2022
CM KARIUKI, J
JUNE 15, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

IBRAHIM KARIUKI WANJIRU 1ST ACCUSED

SIMON MUGI WANJIKU 2ND ACCUSED

RULING

1. The Accused persons are charged with Murder. They have pleaded not guilty, and thus matter transitioned to the issue of whether the accused should be released on bond pending trial. This elicited opposition by the Investigating Officer via the Affidavit of Corporal Jackson Mbithi sworn on 1/2/2023. His core grounds are:
 - i. Accused are likely to interfere with witnesses if released on bond.
 - ii. That the accused are a flight risk if released on bail.
2. The Post Bail Report (PBR) filed highlights the victim’s family’s unwillingness to accede to the idea that the accused can be released on bond. The accused are said to have a fixed abode at the family’s home.
3. The Bail and bond policy guidelines stipulate that; decision-making is whether the accused person will appear for trial if granted bail. A particular challenge the courts have faced since the promulgation of the Constitution of 2010 is determining the existence of compelling reasons for denying an accused person bail, particularly in serious offenses. According to the court’s decisions, the determination of whether compelling reasons can justify the denial of bail should be made by evaluating whether or not the accused person will attend their trial.



4. In practice, the courts have made this evaluation by considering the following non-exhaustive factors: The nature of the charge or offense, The strength of the prosecution case, Character and antecedents of the accused person,) The failure of the accused person to observe bail or bond terms on, Likelihood of interfering with witnesses, The need to protect the victim or victims of the crime from the accused person, The relationship between the accused person and potential witnesses, The accused person is a flight risk, Whether an accused person is gainfully employed, Public order, peace or security Whether the release of an accused person will disturb public order or undermine public peace or security, Protection of the accused person. Whether pretrial detention is necessary to protect the accused person, among other things.
5. After perusing the report PBR, IO affidavit, and the party's advocate submissions, the court finds no compelling reason for the denial of bond/bail to the accused.
6. However, the finds that the grant be conditional that the accused be reporting at the nearest DCI's office in Nyandarua North every first week of the month with effect from July 5, 2023 to confirm his availability.
 - i. Thus, bond/bail is granted accordingly, subject to the condition above.

DATED, SIGNED, AND DELIVERED AT NYAHURURU ON THIS 15TH DAY OF JUNE 2023.

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CHARLES KARIUKI
JUDGE

