



**Republic v M’Muga (Criminal Case E040 of 2022)
[2023] KEHC 19636 (KLR) (6 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 19636 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE E040 OF 2022
EM MURIITHI, J
JULY 6, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOHN MUGAMBI M’MUGA ACCUSED

RULING

1. This is a Ruling in our application for review of bail order made by ruling of 31/8/2022 when the court declined to grant bail on the ground of likelihood to interfere with Prosecution witnesses and directed that the evidence of key prosecution witnesses be taken first before a reconsideration of the question of bail.
2. The denial of bail was based on information presented to the Court by the Investigating Officer’s Affidavit on alleged threats made to Prosecution witnesses. The Court found in the Ruling that the allegations that accused had been on the run were not properly founded.
3. The Court has now heard the testimony of two Prosecution witnesses and the submissions of Counsel suggest that there is one more key witnesses to be called.
4. The Court, however, notes that the Githongo Principal Magistrates’ Court in Criminal Case 276 of 2022 dismissed the Criminal charges against the accused from the alleged threats which had been the foundation of the order of refusal of bail in this case.
5. The Court notes that the issue in dispute between the parties in the Court proceedings is land and although land in Kenya is an emotive issue, as urged by the Prosecution, it cannot Justify the denial of bail before trial so as to detain without trial a party to the land dispute in a way to steal a march on the one party, or to punish the accused before his guilt is established.



6. This Court considers that there is now no compelling case for denial of bail for the accused, Key prosecution witnesses having testified and the allegations of threat on witnesses having been dismissed in a full trial before the Githongo PM's Court. Criminal Case No. 276 of 2022.

Orders

7. Accordingly, the court makes an order for the release of the accused on bail upon terms that:-
1. Accused shall execute a bond of Kshs. 200,000/= with one (1) surety.
 2. Accused shall not interfere with any of the witnesses of the Prosecution by any form of contact, physical, verbal or telephonic or by proxy.
 3. The accused shall not visit the parcels of land under dispute and which are subject of the Succession proceedings before the Court without prior permission of the Court.
 4. The Accused shall report to the DCIO of the relevant area every fourteen 14 days until the hearing and Judgment in this case or further orders of the Court.

Orders accordingly.

DATED AND DELIVERED THIS 6TH DAY OF JULY, 2023

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Mrs. Mutegi for Accused

Mr.Masila for DPP

