



REPUBLIC OF KENYA



**Mukami v Republic (Criminal Case E023 of 2023)  
[2023] KEHC 24984 (KLR) (5 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24984 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE E023 OF 2023  
DO CHEPKWONY, J  
OCTOBER 5, 2023**

**BETWEEN**

**IRENE MUKAMI ..... ACCUSED**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The accused person, Irene Mukami is charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#).

The particulars are that:-

“On the 1<sup>st</sup> day of July, 2023 at around 5.30pm at Kinoo area in Kikuyu Sub-County within Kiambu County, the accused murdered Jalani Kabiru Micwe.”

Having been confirmed fit to plead by a Psychiatrist, the accused was arraigned before court and he pleaded Not Guilty of the offence of murder.

2. The court directed the accused to file a formal application for his release on bail so that the prosecution could respond to it. The court also called for a Prebail Report to be filed by the Probation and aftercare services office.
3. The accused then filed a notice of motion application dated May 18, 2023 seeking the following orders:-
  - a. That the Honourable Court be pleased to admit the accused/applicant to reasonable bond/ bail terms pending hearing of the charge herein.
  - b. That costs of this application be provided.



4. The Application is premised on the grounds set out in the supporting affidavit of Irene Mukami sworn on August 18, 2023. Wherein she states that she was employed as a housekeeper in the deceased's home where she worked as a househelp for close to one (1) year and diligently, faithfully and without any complains taken care of four (4) young children who included the deceased, she has also stated that she comes from a poor background, and was working as a househelp to support her family members who solely depend on her. She contends that she does not own a passport or financial ability hence she is not a flight risk. The accused has assured this court that she has and will always avail herself to the relevant authorities and co-operate if released on bond/bail pending trial.
5. A prebail report on the accused was filed on September 18, 2023. From this report, her family described her as hardworking, focused and disciplined person. She is said to be 20 years old. The victim's family was only desirous of justice for the loss of their son and urged that strict bond terms be issued. The community described the accused as a morally upright person but also urged that justice be done for the victim's family.
6. The prosecution counsel indicated to the court that they are not opposed to the court granting bail and bond terms.

### **Analysis and Determination**

7. It is trite law that although release on bail and bond is a right of an accused person under article 49(1) (h) of *the Constitution*, it is not automatically granted if there are compelling reasons to deny it. Article 49 (1)(h) provides that: -

‘An accused person has the right ...

(h) to be released on bond or bail, on reasonable conditions pending a charge or trial, unless there are compelling reasons not to be released.’
8. The court in the case of *Republic vs Joseph Thiongo Waweru & 17 others* [2017] eKLR defined compelling reasons as follows: -

“The Constitutional standard for denying bail is “compelling reasons” test. The burden is on the Prosecution to establish the existence of the “compelling reasons” that would justify denial of bail. Our emerging jurisprudence on the question is clear as to the kind of evidence needed to establish the “compelling reasons”: The evidence presented must be “cogent, very strong and specific evidence” and that mere allegations, suspicions, bare objections and insinuations will not be sufficient.”
9. In this case, the court finds that there are no compelling reasons to hinder the accused to be released on bail and bond terms as neither the prosecution, victim's family or community urged for strict terms to be imposed.
10. In view of all the foregoing concerns, the Notice of Motion application dated May 18, 2023 be and is hereby allowed in the following terms:-
  - a. The accused person may be released on her own bond of Kshs.300,000.00 with one surety of a similar amount.
  - b. The accused to provide full particulars of a contact person to court.
  - c. The accused person to attend court whenever she is required until full determination of her trial.



d. Failure to comply with above conditions, will result into the cancellation of the bond granted.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 5<sup>TH</sup> DAY OF OCTOBER, 2023.**

**D.O CHEPKWONY**

**JUDGE**

In the presence of:

M/S Ngesa counsel for the State

M/S Wanjira counsel for accused

Court Assistant - Martin

