



**Mwangi alias Kwame v Republic (Criminal Case E032 of 2024)
[2024] KEHC 14148 (KLR) (14 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14148 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E032 OF 2024
JM NANG'EA, J
NOVEMBER 14, 2024**

BETWEEN

EZEKIEL SAKWA MWANGI ALIAS KWAME ACCUSED

AND

REPUBLIC PROSECUTION

RULING

1. On 19/9/2024 the accused herein was arraigned before this court charged with four (4) counts of Murder Contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offences state that on various dates and at various places within Nakuru County, he murdered Alice Ayuma, Virginia Njeri Mwangi, Florence Mueni Mwalimu and Vellah Moraa Mogambi.. He pleaded not guilty to the charges.
2. The defence Counsel (Mr. Omwansa) subsequently applied for release of the accused on bail pursuant to Article 49(1) (h) of *the Constitution* stating inter alia that he is a form 1 student. Counsel submitted that in terms of Article 50(2) (a) of *the Constitution* the accused is presumed innocent until proven guilty.
3. The prosecution Counsel opposed the application relying on the affidavit evidence presentend by the case Investigang Officer (Cpl Vincent Lang'at). The officer avers in the affidavit that the accused is a flight risk as he has no fixed place of abode and his relatives are not ready to accomodate him. It is alleged that he disappeared after allegedly committing the murders and further that he had twice escaped from custody at Kimumu Probation Hostel Centre Eldoret, where he was serving a 1 year probation sentence.
4. The court is also told that the offences charged are serious and could result in long prison sentences, hence an incentive by the accused to flex.



5. Learned Counsel for the prosecution and the defence filed written submissions which I have also perused. Indeed Article 49(1) (h) provides that an accused person has the right to be released on bond/bail on reasonable terms unless compelling reasons are given that militate against his release [(also see Case Law in Joklam Mayende & 3 Others 2012) eKLR (Republic vs Sifuna (2023) eKLR cited by the defence Counsel.
6. As also submitted by the Prosecuting Counsel citing the judicial determination in Michael Juma Oyamo & Another vs Republic (2019) bond/bail is not denied on flimsy grounds but real and cogent grounds. The primary consideration in all cases, however, is whether the accused will turn up for trial. In making this determination the court considers inter alia the nature of the charge and seriousness of punishment upon conviction as these factors could motivate the accused to abscond. (see *Manuna vs Republic (Miscellaneous Criminal Application 19 of 2023)* [2023] KEHC 17221 (KLR) (9 May 2023) (Ruling) and Republic vs Oonde & Another (Criminal Case E018 of 2024) [2024] KEHC 9000 (KLR) (25 July 2024) (Ruling).
7. The Probation Officer filed a Pre-bail Report stating that the accused has no fixed place of a board and twice escaped from Kimumu Probation Hostel Centre, Eldoret, where he was undergoing rehabilitation after conviction for the offence of stealing. His father is also reported to have stated that he had run away from home.
8. The accused has not rebutted these claims. Further considering that he faces serious charges that attract stiff sentences if convicted, I find that these are compelling reasons to deny bail/bond. The prosecution has shown on a balance of probability that there exist compelling reasons to dismiss the application.
9. In the result the application for release of the accused on bond/bail is rejected.

J. M. NANG'EA, JUDGE.

RULING DELIVERED THIS 14TH DAY OF NOVEMBER, 2024 IN THE PRESENCE OF:

The state, Ms Sang

Advocate for the accused, Ms Omwansa

Accused, present

J. M. NANG'EA, JUDGE.

