



**Republic v Kazungu & another (Criminal Case E004 of 2023)
[2024] KEHC 17094 (KLR) (20 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 17094 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL CASE E004 OF 2023
AN ONGERI, J
NOVEMBER 20, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

HAMISI TAYARI KAZUNGU 1ST ACCUSED

SULEIMAN CHIGAMBA ZEMBE 2ND ACCUSED

RULING

1. I have considered the submissions by the learned Defence Counsels in support of the bail application on behalf of the two Accused persons.
2. I have also considered the Objections raised by the Learned Prosecution Counsel.
3. *The Constitution* of Kenya 2010 states in Article 49 that every Accused person is entitled to reasonable bond unless there are compelling reasons to deny the accused person bond.
4. I have considered the pre-bail reports filed by the Probation Officer and the security of the Accused persons is sighted as the reason to deny the Accused persons bond.
5. The Accused persons were arrested in April 2023 and they have been in custody since that time.
6. The legal position in any criminal case is that the Accused persons are presumed innocent until proved guilty.
7. Denying the Accused persons bond in the current case is tantamount to presuming they are guilty until proved innocent when the position should be vice versa.
8. It is wrong for the members of the public to threaten the lives of the Accused persons while they are yet to be tried for the offence they have been charged with.



9. The Accused persons have a right to be released on bail unless there are compelling reasons for denying them bond.
10. There is a lengthy lapse of time since the Accused person were arrested and there is no telling how soon this case will take to be finalized.
11. I find that the same reasons sighted last year cannot be used to keep the Accused persons in custody in view of the constitutional mandate to grant them bail pending trial.
12. The Accused persons who are young people need to be allowed to continue supporting their families even as they avail the trial of their case. The first accused person (A1) has young children who need him.
13. I grant each of the Accused persons a bond of Kshs. 500,000/= with one surety each of the same amount.
14. The Accused persons are also given a condition to avoid visiting or going where the deceased's family resides.
15. The deceased's family also to be admonished by the Probation Officer to respect the constitutional rights of the accused persons and to desist from taking the law into their own hands in a matter pending trial.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF NOVEMBER 2024 IN OPEN COURT AT VOI.

ASENATH ONGERI

JUDGE

In the presence of:-

Prosecutor: Miss Kanyuira

Court Assistant: Maina/Trizah

Mr. Mosioma for the 1st Accused person

Mr. Mwanyumba for the 2nd Accused person

