



**Republic v Nyamburi & 2 others (Criminal Case 74 of 2019)
[2024] KEHC 15857 (KLR) (Crim) (17 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15857 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE 74 OF 2019**

**LN MUTENDE, J
DECEMBER 17, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

CHARLES OMONDI NYAMBURI ALIAS AWASI CAR WASH 1ST ACCUSED

KEVIN OMONDI AHIJA ALIAS BABA TASHLY ALIAS KEVO 2ND ACCUSED

JOSEPH OCHIENG MAYOT 3RD ACCUSED

RULING

1. Upon indictment, the accused denied charges. They applied to be released on bail pending trial; an application that was declined on grounds that: there was a possibility of the accused interfering with prosecution witnesses who came from the same neighbourhood with them; one of the witnesses had been targeted by the attackers but escaped;
2. their accomplices are yet to be arrested, a fact that would result into interference with investigations; and, that the 3rd accused disappeared for two (2) years prior to being arrested, therefore, is a flight risk.
3. In the result it was ordered that the accused were at liberty to seek review of bail once key witnesses testify.
4. It is a constitutional right and a legal entitlement for an accused to be released on bail during pendency of trial unless there are compelling reasons, which were found to exist in the instant matter.
5. Therefore, review of the denied bail would involve change of circumstances. So far five (5) witnesses have testified; but one key witness indicated as D-5 has not testified. It would be imperative for the witness to testify prior to the question of review of bail being reconsidered. I am alive to the question



of pre-trial detention as the accused have been in custody for an extended period which would call for review of bail to ensure timely justice. However, the order dated 9th November 2021 by Chepkwony J. was specific which cannot be contravened.

6. In the upshot, the application fails at this stage, and is accordingly dismissed.

7. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT
NAIROBI, THIS 17TH DAY OF DECEMBER, 2024.**

L. N. MUTENDE

JUDGE

