



**Republic v Njeri (Criminal Case 51 of 2019)  
[2024] KEHC 15713 (KLR) (Crim) (13 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15713 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL CASE 51 OF 2019  
K KIMONDO, J  
DECEMBER 13, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DANIEL GITHINJI NJERI ..... ACCUSED**

**RULING**

1. The accused’s notice of motion dated 22<sup>nd</sup> April 2024 prays for bail pending trial. However, it is truly a motion for review of the refusal of bail made by the court on at least three previous occasions.
2. From the annexed deposition, the accused avers that he has been in remand custody for nearly five years; and, that he will relocate to his mother’s house at Kahawa West. He also deposes that he suffered a knee injury in prison in the year 2020 that now requires specialized medical attention. A doctor’s letter is annexed marked DGN-2. He states further that the prison authorities have authored the recommendation letter marked DGN-1; and, that he will abide by any conditions set for his release.
3. The application is contested by the Republic on the basis of the earlier affidavit sworn by the investigation officer on 13<sup>th</sup> September 2019 as well as the evidence of Sergeant Charles Musyimi (PW6). The objections are three-pronged: Firstly, that the accused remains a flight-risk; secondly, that the application is belated because the prosecution has closed its case; and, lastly, that there are no plausible grounds for review.
4. On 3<sup>rd</sup> October 2024, I heard further arguments from both learned counsel for the accused and the republic.



5. I take the following view of the matter. It is a truism that the accused is deemed innocent at this stage. Under Article 49 (1) (h) of *the Constitution*, he would be entitled to bail pending trial unless there are compelling circumstances. See generally *Muraguri v Republic* [1989] KLR 181.
6. The record shows that on 7<sup>th</sup> November 2015, the court declined the prayer for bail for, among other reasons, that the accused was likely to interfere with witnesses. A review was denied on 15<sup>th</sup> July 2021. The accused made a further application for bail vide a motion dated 20<sup>th</sup> January 2022. In a considered ruling dated 4<sup>th</sup> April 2022, the court (Chepkwony J) found it unmerited.
7. The present motion must thus be viewed through those lenses. The grounds now urged are neither new nor do they support the review sought. Additionally, I have now heard the evidence of state witnesses including that of Sergeant Charles Musyimi (PW6). In fact, the Republic has closed its case and the matter is pending compliance with filing of submissions on whether a prima facie case has been made out. It bears repeating that the accused is still deemed innocent.
8. The upshot is that no sufficient grounds have been laid for review of the earlier orders denying bail. The Notice of Motion dated 22<sup>nd</sup> April 2024 is hereby dismissed.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13<sup>TH</sup> DAY OF DECEMBER 2024.**

**KANYI KIMONDO**

**JUDGE**

Ruling read virtually on Microsoft Teams in the presence of-

The accused.

Ms. Tum for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

