



**Republic v Langat (Criminal Case E008 of 2024)  
[2024] KEHC 15570 (KLR) (3 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15570 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
CRIMINAL CASE E008 OF 2024  
F GIKONYO, J  
DECEMBER 3, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**BENARD LANGAT ..... ACCUSED**

**RULING**

**Bond**

1. The prosecution filed an affidavit on compelling reasons sworn by PC Jeremy Levis- one of the investigating officers in this case.
2. The major reasons cited are; a) interference with witnesses; and b) likelihood of absconding.
3. The defence is of the opinion that reasons cited by the prosecution are not compelling reasons, and that the accused is presumed innocent until proven guilty. He sought his release on bond or bail.

**Analysis and determination**

4. An accused person has the right ‘to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.’ Art. 49(1)(h) of *the Constitution*.
5. The prosecution bears the burden of proving ‘compelling reasons’ for the accused person ‘not to be released’ on bond or bail. These are reasons which justify limitation of a right under article 24 of *the Constitution*.
6. The prosecution has stated that the accused was arrested at Emuria Dikirr whilst fleeing, he has no fixed abode and they have a strong case against him, making him apprehensive and likely to abscond.
7. Merely stating that the accused has no fixed abode is not ipso facto an indication that he will abscond. Without evidence that this factor increases the likelihood of absconding, this should not be encouraged



to be a compelling reason for purposes of article 49(1)(h) lest all without a fixed abode should be deemed to be flight risk.

8. Convincing evidence should be adduced to show the accused is a flight-risk, which is lacking here.
9. A more potent ground is likelihood of compromising a witness named ARON LANGAT who is a minor aged six years old and a close neighbour of the accused. Such witness is vulnerable to manipulation or threats by the accused person. The suggestion by the prosecution that the accused should not be released on bond or bail until the said vulnerable witness has testified passes the article 24 test to limit the right to liberty of the accused person.
10. Accordingly, the prosecution has established a compelling reason not to release the accused until the vulnerable witness has testified. The matter be fixed for the taking of the evidence of the said witness.
11. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT KILGORIS THROUGH MICROSOFT TEAMS  
ONLINE APPLICATION THIS 3<sup>RD</sup> DAY OF DECEMBER, 2024**

.....

**F. Gikonyo M**

**Judge**

In the presence of: -

1. Okeyo for DPP
2. Makori h/b for Maito for accused
3. Accused
4. Nyangaresi C/A

