



**Prosecution v Muthuki (Criminal Case E011 of 2023)
[2025] KEHC 14086 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14086 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E011 OF 2023
LN MUTENDE, J
OCTOBER 6, 2025**

BETWEEN

PROSECUTION REPUBLIC

AND

JEREMIAH GITHINJI MUTHUKI ACCUSED

RULING

1. Jeremiah Githinji Muthuki, the Accused/ Applicant, is jointly charged with eight (8) others for Murder. Upon arraignment, his co-accused were denied bail on 23/07/2023, on account of their own security since there was tension following the incident. Subsequently, they were granted cash bail of Ksh.100,000/- and/or bond of Ksh.200,000/- The Applicant was arrested later on and arraigned on 13/08/2024. Through a Ruling dated 28th February,2025, by Ndung'u J. the Applicant was denied bail. It was the finding of the court that the Applicant had removed himself from the jurisdiction of the court which was a compelling reason for him to be denied bail.
2. Through an application dated 23rd June, 2025, the Applicant seeks review of the order denying him bond so as to be released on bond with a surety and an alternative of cash bail.
3. The application is premised on grounds that the Applicant was denied bail because the investigating officer deposed an affidavit alleging that he was a flight risk but he still denies the allegation and that he will not interfere with witnesses because crucial witnesses have testified.
4. The application is not opposed by State through learned Prosecution Counsel. Ms. Mumbere. save for the prayer that the terms to be imposed following review be reasonable.
5. An Accused person is presumed innocent until proven otherwise. (see Article 50 (2)(a) of *the Constitution*). According to the Universal Declaration of Human Rights, every person charged with a penal offence has the right to be presumed innocent until proven guilty. This is a fundamental principle of law that protects the rights of an Accused person.



6. The Applicant herein was denied bail for being a flight risk. The basis of the Applicant being denied bail was the deposition of the Investigation Officer who deponed that the Applicant escaped from police officers who had gone to arrest him on 26th May,2023 and went into hiding until the 11th August,2024 when he was arrested following a tip off. It was hence urged that there was a likelihood of the Applicant absconding if released on bond and he would interfere with witnesses who are his neighbours. That upon return he was informed about police officers who were looking for him.
7. It was however the contention of the Applicant that he was away in Kisii on a business venture when the police were looking for him at his Kabage home and when he returned he was never summoned to the Police Station and he did not know he was a suspect. Admitting that he was arrested on 11/08/2024, he denied having been arrested at Tetu Nyeri. But argued that the arrest was effected at his Kabage farm that was near Tetu Secondary School hence the confusion. He denied being a flight risk or having any intention of interfering with witnesses.
8. The court presided over by Ndung'u J disbelieved the Applicant and found that he deliberately removed himself from the jurisdiction of the court so as to evade arrest, hence denial of bond.
9. Issues to be determined will be whether there exist new facts or change of circumstances calling for review of bail terms. This court will be considering whether there has been any development of significant change in the matter. In the application the Applicant has not outrightly addressed what could be new facts but reiterates that he is not a flight risk a question that was addressed and established that he disappeared for a while prior to being arrested and arraigned. The averments in the further affidavit by Regina Nyokabi alleging that all along the Applicant that she refers to as her husband, was at home although he was away in Kisii on the 26/05/2023 selling tomatoes, purports to challenge what was addressed by the learned Judge, a question that this court cannot determine as it would be interrogating a decision of a concurrent court. The learned Judge questioned why he did not call a family member to support his allegations which he has erroneously done at this stage.
10. It was argued that he would not interfere with witnesses who are his neighbours. The only material development in the matter is the fact of many witnesses having testified which can be viewed as change of circumstances that would justify review of the question of bail. In Republic v Diana Suleiman Said & another [2014] KEHC 3724 (KLR) it was held that:

“The changed circumstances test is one of common sense that where the circumstances of the case are so altered that compelling reasons are disclosed for the refusal of bail or for review of terms thereof, the court as a court of justice must reserve for itself a power to revisit the issue in the interest of justice not only for the accused but also for the complainant and the society at large.”
11. The only change of circumstances in the matter is the fact of a total of 15 out of 18 witnesses to be called having testified which means there will be no intimidation or meddling of witnesses. The question of absconding would call for stringent bail terms considering that the offence is grave.
12. In the upshot, I review Bail/Bond terms by granting the Applicant/Accused Bond of Kshs.500,000/- with two sureties of similar amount.
13. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 6TH DAY OF OCTOBER, 2025.

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L.N. MUTENDE



JUDGE

