



**Republic v Fassi (Criminal Case E012 of 2025)
[2025] KEHC 14546 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14546 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKADARA
CRIMINAL CASE E012 OF 2025**

J WAKIAGA, J

OCTOBER 2, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

MELVIN FASSI ACCUSED

RULING

1. The accused is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, the particulars of which are that on the 9th December 2024 at Molem Tononoka Area in Njiru Sub -County with Nairobi County murdered Kendrick Lamar.
2. She pleaded not guilty to the charges and in compliance with the Provisions of Article 49 (1) (h) of *the constitution*, the State filed an affidavit opposing the release of the accused on Band/Bail through CPL Samuel Gichuki sworn on 19th May 2025 in which it was deposed that the deceased was the accused child aged 4 years as at the time and that the incidence occurred in the house of the accused friend where she had sought refuge after disagreement with her mother who lived in Kayole.
3. That the incidence was witnessed by a 16-year-old child who was still traumatized by how the deceased was assaulted while crying helplessly. The accused thereafter went to the police station and reported that the deceased had been bewitched and died before taking the body to the hospital where she abandoned it and switched off her mobile phone and started using another number and was therefore likely to vanish if released on bond based on her past conduct of disappearing from home and concealing information from her host, mother, the police and the mortician.
4. The accused filed an affidavit in response in which she deposed that she had a fixed abode and had no intention to flee. She was willing to abide with all conditions and that the gravity of the offence should not outweigh her right to liberty.



5. In compliance with the Bond Policy Guidelines, the court called for Pre-bail report in which it was stated that the deceased father separated with her mother in the year 2022 and that the accused had a strained relationship with her family which steamed from her resentment towards her mother and a feeling of being unloved leading to delinquent behaviour and a history of running away from home and was likely to be a flight risk.
6. It was stated that in the year 2013, the accused escaped from home and lived in the street before being rescued by the police and admitted to Kabete Rehabilitation Centre without her parent's knowledge. She dropped out of secondary school due to lack of interest and truancy and started living with a boyfriend and subsequently became pregnant and when the child was two, she ran away from home and only resurfaced after media appeal. After disagreement with her mother she moved out from home and began living with one Jane while working in various clubs as at the time of her arrest.
7. She has no community ties and was reported to having ties with peers with criminal tendencies. She described Jane as her lover, who stated that she was unable to provide a place of abode for the accused should she be released on bond.

Submissions

8. On behalf of the State Ms. Ogweno submitted that deceased was the child of the accused and that the accused was likely to abscond based on her past conduct as confirmed by the pre-bail report and that she did not have fixed abode.
9. Mr. Khadondi relied on his written submissions and the pre-bail report which stated that court may grant bond subject to conditions.

Determination

10. Bail/Bond is a constitutional right of every accused person under Article 49 and may only be limited if the prosecutions provide to court compelling reasons which the Court of Appeal in Michael Juma Oyamo & another versus Republic [2019] eKLR stated to be forceful and convincing as to make the court feel strongly that the accused should not be released on bond, thus the accused should not be denied bond on flimsy ground but on real and cogent grounds that meet the constitutional standards.
11. These reasons are captured in section 4.9 of the Bail and bond Policy Guidelines which were further captured in section 123A (1) of the Criminal Procedure Code
12. The court however should not lose sight of the fact that the purpose of bond is and remains to secure the attendance of the accused to court during the period of his trial and that the right to liberty should never be curtailed as was stated in Republic versus Nuseiba Mohamed Haji Osman [2018] eKLR, denial of a constitutional right is not to be treated lightly and any claim made against an accused person towards curtailing his liberty must not be made on speculation and conjectures.
13. In this matter whereas the accused is has submitted that she has a fixed abode, the record before the court states otherwise. Her immediate family has a challenge with her and her friend in whose house the offence is alleged to had occurred, has through the pre-bail report indicated her unwillingness to carry the burden of the accused. There is also the child who allegedly witnessed the deceased being assaulted, who might not understand the release of the accused by the court in exercise of her constitutional right and who might have a negative understanding of the judicial process.
14. The picture that emerges of the accused person, shows that she is a person in need of love and affection which the world is not ready to offer her and whereas remand custody might not be the best place for



her, based on the evidence tendered before the court, it is the safest place for the same as she undergoes trial.

15. I am therefore satisfied that based on the accused past conduct and the magnitude of her current legal challenges, releasing her on bond will not be in the best interest of justice .
16. It therefore follows that there is placed before court adequate compelling reason to enable the court deny the accused bail / bond at this stage which I hereby do .
17. The accused shall remain in custody until such a time that she is able to provide suitable and adequate place of abode. And it is ordered.

DATED SIGNED AND DELIVERED THIS 2ND DAY OF OCTOBER, 2025

J. WAKIAGA

JUDGE

In the presence of: -

Ms. Ogweno for the state

Mr. Khadodho for the accused

Court Assistant - Irene

