



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Lumara (Criminal Case E166 of 2025)
[2025] KEMC 134 (KLR) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEMC 134 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
CRIMINAL CASE E166 OF 2025
PA NDEGE, SPM
JUNE 3, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

BENSON LUMARA ACCUSED

RULING

1. The accused, Benson Lumara, has applied to be released on cash bail pending trial. He is charged with the offences of obtaining money by false pretences contrary to section 313, malicious damage to property contrary to section 339(1), and offensive conduct contrary to section 94(1); all of the *Penal Code*.
2. The particulars are that on the 29th day of January 2025 at Kongasis Trading Centre in Gilgil sub-County within Nakuru County, with intent to defraud, he falsely represented to Margaret Wangare Ngure that he had been sent by Nancy Chepngetich to collect a 90kg bag of peas valued at Kshs. 10,800, knowing that the representation was false, and thereafter fraudulently took possession of the said goods.
3. In the second count, the particulars are that on 08/02/2025 at about 12.30pm at Kongasis Trading Centre in Gilgil sub-County within Nakuru County, he wilfully and unlawfully damaged the windscreen of a Toyota Prado registration number KBU 077S valued at Kshs. 52,000 the property of Enock Momanyi.
4. In the third count, the particulars are that in 30/01/2025 at about 11.30pm at the same trading centre, he used abusive words to Nancy Chepngetich namely ‘mbwa, Malaya, uko na ukimwi’ with intent to provoke a breach of the peace.



5. I am guided by the Bail and Bond guidelines and Article 49(1)(h) of *the constitution* of Kenya, 2010 which provides that an arrested 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.
6. The Pre- Bail Report presented to the court reveals that the accused comes from a socio-economically disadvantaged background and has carried a significant burden of responsibility within his family from a young age. There are however negative perceptions of him shared by local administration regarding his reputation and criminal gang association. He has however demonstrated remorse and a willingness to comply with court requirements.
7. In setting bail this court must weigh the accused's right to liberty against the need to ensure his attendance at trial. The court finds no reasons to deny the accused bail as the prosecution has not objected to the same. The court is however mindful of the fact that the accused person has not built any positive ties with the community where he lives and chances of him relocating or even fleeing may be high and shall therefore impose appropriate reporting conditions.
8. It is then, guided by the above reasoning, the accused to be admitted to:
 - a. Cash bail in the sum of Kshs. 60,000/=
 - b. He shall report to the Officer commanding Station (OCS), Elementaita County, once every 2 weeks.
 - c. Prior to release, he shall provide the court and police with a verifiable contact person for the court's approval; and location of where he can be reached.
 - d. Failure to comply with these conditions shall result in revocation of bail.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 03RD DAY OF JUNE, 2025

ALOYCE- PETER -NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Court interpreter: Janet

Prosecutions counsel: Macharia

Accused person: Present

Victims: Absent.

