



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Gachingini (Case E005 of 2025)  
[2025] KEMC 216 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEMC 216 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
CASE E005 OF 2025  
PA NDEGE, SPM  
SEPTEMBER 18, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**PHILIP KAMAU GACHINGINI ..... ACCUSED**

**RULING**

1. The accused person herein has been charged with serious sexual offense of Defilement c/s 8(1) as read with 8(3) of the Sexual Offences Act (SOA) and, in the alternative, Indecent Act with a Child c/s 11(1) of the same Act. He denied the offences and a bond of Kshs200,000 with a surety of a similar amount was imposed.
2. The accused prayed for a cash bail alternative and this court called for a Pre-Bail Report. The report dated 07/8 2025 is favorable and recommends a lenient cash bail of Kshs. 30,000/-. In the case of Republic v Robert Zippor Nzilu, Criminal Case No. 4 of 2018, it was held that it is trite law that granting bail entails the striking of a balance of proportionality in considering the rights of the applicant who is presumed innocent on the one hand and the public interest on the other. The cornerstone of the justice system is that no one should be punished without the benefit of due process. Incarceration before trial, when the outcome of the case is yet to be determined, cuts against this principle.
3. Bail and bond decision making is however often guided by certain principles such as the right to be presumed innocent unless proven guilty, the accused person's right to liberty, the accused obligation to attend trial, right to reasonable bail and bond terms, balance between the rights of the accused person and the interests of justice and consideration for the rights of victims.
4. Bail or bond conditions should be appropriate to the offence committed and consider the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by



reference to the facts and circumstances prevailing in each case. In *Andrew Young Otieno v Republic (2017) eKLR*, the court agreed with the Applicant that the purpose of imposing bond terms is to secure the attendance of the accused before the court during trial. The terms imposed by the trial court should not be such that it amounts to a denial of the constitutional right of the accused to be released on bail pending trial. The trial court must consider the circumstances of each accused when determining bond terms to be imposed.

### **Determination**

5. Considering the above principles and factors, and the offences herein being serious, I do hereby impose a cash bail alternative of Kshs. 70,000/-.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 18<sup>TH</sup> DAY OF SEPTEMBER, 2025**

**ALOYCE-PETER-NDEGE**

**SENIOR PRINCIPAL MAGISTRATE**

In the presence of;

Janet.....Court assistant/ interpreter

Macharia.....present for DPP

Accused person – Present

