



**Republic v Wangira alias Vampire (Criminal Case E052 of 2024)  
[2025] KEHC 15438 (KLR) (Crim) (29 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15438 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL CASE E052 OF 2024  
AM MUTETI, J  
OCTOBER 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**COLLINS ODOUR WANGIRA ALIAS VAMPIRE ..... ACCUSED**

**RULING**

1. The accused is charged with Murder contrary to Section 203 as read with 204 of the Penal Code Cap 63 Laws of Kenya. the Particulars Of Offence Were That Collins Odour Wangira Alias Vampire -: On the night of 10th July 2024 at Muthurwa Market in Kamukunji area within Nairobi County jointly with others not before court murdered Boniface Opiyo.
2. The accused persons filed a Notice of Motion dated 14<sup>th</sup> March 2025 supported by an affidavit by Mary Goretti Cheruto Chepsuba. The caused person argued that he is entitled to release on bail under Article 49 (1) (h) of *the constitution* as read together with Section 123 (A) of the Criminal Procedure Code.
3. The accused person contends that though the prosecution is opposed to his release on his bail the prosecution has failed to present any compelling reasons to convince the court that the accused is unfit for admission to bail. Further, the accused person has contended that he is not flight risk and that he has a fixed abode within the jurisdiction of the court.
4. Counsel for the accused person filed the written submissions dated 12<sup>th</sup> august 2025 which this court has duly considered. In the written submissions the accused maintains that the prosecution's opposition to bail is purely based on fear and that there is no cogent reason why this court should not grant him bail.



5. According to the accused, courts in this country have held consistently that where the prosecution harbors the fear that an accused person may be a flight risk the court can mitigate the risk of flight through imposition of stringent bail terms.
6. In support of that argument, counsel cited the following authorities:
  - a. Republic Versus Dwight Sagaray & 4 Others Hccr No. 61 Of 2021 (milimani) In Which Justice R. Korir was not convinced that a Venezuelan national was a flight risk and gave her ruling that the "cure for the issue of possible flight is stringent bond terms". The Prosecution's mere allegations were rejected by court.
  - b. Republic Versus Richard David Alden (nairobi Hccr No. 48 OF 2016) where lady Justice Lesiit (as she then was) held;- "...I do consider that the issue of being a flight risk is pertinent, However, like my Sister R. Korir J. it is a matter that can be addressed by other means when settling terms and conditions of bail/bond, if the court is inclined to grant the same to the Accused..."
7. The accused person further contended that prosecution had not established that he was likely to interfere with the witnesses. The accused maintained that he has no capacity to interfere with the witnesses and that he will be willing to abide by any conditions that the court may impose.
8. In the case of Panju Versus Republic (1973) E.A. 284 the court in dismissing the Prosecution's fear of interference with witnesses stated that: -
 

"before any one can say there could be interference with vital witnesses, at least some facts should be laid to the court, otherwise it is asking court to speculate"
9. The likelihood of interference with witnesses should be founded on credible evidence and that the prosecution must be able to demonstrate that it is not acting out of mere apprehensions. In the case of Republic Versus Joktan Mayende (2012) eKLR Gikonyo J. stated: -
 

"Where there is evidence that that person is accosted, physically or otherwise, by an Accused person in the case where the person is a witness, it suffices to prove that the Accused did act(s) tending or intended to interfere with a witness"
10. The accused argued that the prosecution has failed to establish on a balance of probabilities that there is real likelihood of interference with witnesses thus this court should be inclined to grant bail.
11. The prosecution has opposed the accused persons release on bail relying on an affidavit sworn by No.243603 Pc Pwoka Mauka on the 7<sup>th</sup> August 2025. According to the officer the accused person is a flight risk. The officer has deposed that the accused person has no fixed abode therefore once he is released on bond, it would have difficult to trace him should he evade trial.
12. The officer has further contended that since the witnesses in the matter are known to the accused, there is a likelihood that he would interfere with them.
13. Lastly the investigator has alluded to there being other members of the gang that attacked the deceased out there whom he believes would most likely aid the accused to escape and defeat justice.
14. The court has carefully considered the arguments presented for and against the prayer for release of the accused on bail and has come to agreement with the defense that the reasons advanced in opposition to bail are not compelling enough to justify the denial of bail.



15. The affidavit in opposition is awash with generalities and there is no tangible evidence to substantiate the claim that the accused is likely to interfere with witnesses once released on bail
16. The fact that one knows the witnesses lined up to testify against him does not necessarily mean that they would set out to interfere with them. The prosecution in order to succeed on this ground must be able to demonstrate that the accused has either directly or through proxy embarked on a mission to interfere with the witnesses or to dissuade them from testifying. To rely on generalities would be tantamount to seeking to limit the right to liberty in a very cavalier manner considering that the accused enjoys the presumption of innocence under Article 50 of *the constitution*.
17. The right to bail has a bearing on the right to a fair trial in that a person who is charged with a criminal offence should be allowed to enjoy his liberty while the trial is underway. The accused person is able to freely prepare his defense without the undue pressure and stress of incarceration.
18. The liberty of an individual is precious and must not be curtailed without sufficient cause. The primary consideration in granting bail is whether or not the accused person would be able to return for trial.
19. Once the court is satisfied on this, unless there are other compelling reasons forceful enough to persuade the court otherwise, bail should be granted. The use of the term compelling reasons signifies the weight the law attaches to any reason that a court relies on to deny bail. It must not be a casual manner.
20. In *Republic v Joktan Mayende & 3 Others* [2012] eKLR, *Mohamed Abdurrahman Said & Another v Republic* [2012] eKLR, *Wilson Thirimba v DPP* [2012] eKLR, among others, the respective Courts reverted to the meaning of the word ‘compelling’ which is defined in the Concise Oxford Dictionary, 9th Edition as ‘rousing, strong, interest, attention, conviction or admiration’. However, ‘compelling reasons’ is relative as it depends on the circumstances of each case. As such, the mere fact that the offence with which an accused is charged carries a serious sentence is not necessarily a reason for denial of bail. That ground only becomes a factor if it may be an incentive to the accused to abscond from appearing for trial. Therefore, the real question that the court must keep in mind is whether or not the accused will be able to attend the trial and whether or not a free and fair trial can be achieved notwithstanding the release of the accused on bond.
21. The prosecution must demonstrate this on a balance of probabilities in order for the court to weigh the reasons in exercising its discretion. The prosecution has not in my view proved that the accused is unlikely to return for the trial.
22. The primary consideration is whether the accused person will appear for trial if granted bail.
  - a. Section 4.9 of the Bail and Bond Policy Guidelines provides that the following factors, which are by no means exhaustive, should be considered by the trial court before deciding whether or not to grant bail:
    - l. Protection of the accused person.
    - k. Public order, peace or security.
    - j. Whether accused person is gainfully employed.
    - i. The accused person is a flight risk.
    - h. Child offenders.
    - g. The relationship between the accused person and potential witnesses.



- f. The need to protect the victim(s) of the crime.
  - e. Likelihood of interfering with witnesses.
  - d. The failure of the accused person to observe bail or bond terms.
  - c. Character and antecedents of the accused person.
  - b. The strength of the prosecution case.
  - a. The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.
23. The imposition of terms of bail, if necessary, must similarly be for the purposes of ensuring the attendance of the accused at the trial and ought not to be based solely on the sentence that the accused stands to serve if convicted. See *Republic v Wycliffe Nyakwana Nyamweya (Criminal Revision 135 of 2016) (2016) KEHC 7930 (KLR) (Crim) (28 July 2016) (Ruling)* where the court held that;
- “It is therefore my view that the discretion to grant bail and set the conditions rests with the court. In all cases where the court is called upon to exercise its discretion in regard to whether or not it should grant bail pending trial, the most important consideration is whether the accused will attend court during trial”.
24. This court applying the above test find that there no compelling reasons to deny the accused person bail and hereby orders that the accused may be release of bail on the following conditions:
- a. A bond of 1 Million plus one surety of similar amount.
  - b. The accused person shall provide details of his permanent home and the place he shall reside pending the trial.
  - c. The Accused shall also provide the contacts of at least one relative who shall undertake under oath before the Deputy Registrar of this court that he/she shall ensure that the accused person attends court at all times whenever required to do so.
  - d. The area chief of the locality where the accused person resides shall provide a letter to the court confirming that the information provided in relation to the accused persons residence is true and correct.
  - e. The accused person shall provide to the court a mobile telephone contact that he shall maintain in active use throughout the trial.
26. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29<sup>TH</sup> DAY OF OCTOBER, 2025.**

**A. M. MUTETI**

**JUDGE**

In the Presence of: -

Habiba: Court Assistant

Ms Njoroge for the state

Ms Chepsea for Accused



Accused: present

