

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CRIMINAL DIVISION
HCCR. NO. E067 OF 2025

REPUBLIC.....PROSECUTOR

VERSUS

AGNES

KATHURE.....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.
2. The accused denied the charge against her.
3. The state has opposed the grant of bond/bail to the accused.

Through an affidavit sworn by PC. Geoffrey Kamau, the Investigating Officer, the state has set out the following grounds:-

- a) That the accused was arrested ad arraigned before the Chief Magistrate's court at Maua, vide Misc. Criminal Application No. E021 of 2025.***
- b) That the accused was released by the court and asked to report to the police.***

c) That subsequently the accused was issued with a notice to compel attendance under Section 52 of the National Police Service Act, but failed to honour the summons, and eventually, switched off her phone.

d) That the accused remained at large until 17/10/2025 when the Investigating officer pumped into her and then arrested her.

e) That for the foregoing reasons, the accused is a flight risk.

f) That she has no fixed abode and is likely to interfere with key witnesses.

4. The accused was opposed to the application to deny her bond/bail. Through her advocate, she stated that she was not aware of any notice to compel her to go to the Investigating Officer.
5. That she never absconded and even has a business near the police station. It was further stated that she is a single mother and that her children were left under the care of her neighbor.
6. The court called for a pre-bond/Bail report which was filed. I will address it shortly.

7. Article 49 (1) (h) of the Constitution grants every accused a right to bond/bail, unless compelling reasons are given to warrant the curtailment of that right.
8. As for what entail compelling reasons, it depends on each case. Instances of such compelling reasons were outlines in Republic Versus Danson Mugunga and Danson Kabage Versus Republic, where it was held as follows:- XXXX
9. Needless, to state the burden is on the state to prove these compelling reasons. The probation Officer was able to peruse the court file in Maua Chief Magistrates Court Case No. E021 of 2025. He established that the file was closed as the matter was settled. The report thus counters what the Investigating Officer deponed that the accused was ordered to report to the police.
10. The same report shows that the accused was ever present at Mutuati Market, running her grocery stand. She was not able to return to her home as the deceased's family had taken over his property.
11. The victim's family were characteristically, opposed to the grant of bond/bail.

12. I have considered the matter and I am of the view that it cannot be said that accused absconded. Why would she still hang around the area where she was arrested if that was the case?
13. I find that there was no notice attached to the affidavit to prove that the accused had been made aware of the time or date to report to the police.
14. Denial of bond to an accused person, though allowed by the Constitution, should be in clear cases where compelling reasons have been preferred by the state.
15. In that instant case, I find no such reasons. The accused's family is available accordingly to the report.
16. In such circumstances, I grant the accused a bond of KSh. 200,000/= with a surety of similar amount.

**Signed, dated and delivered at Meru this 4th day of
November, 2025.**

H.M. NYAGA

JUDGE

