

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL CASE NO. E015 OF 2024**

REPUBLIC..... PROSECUTOR

VERSUS

JAMES VUNDI MUTHYAKA alias MURIFE.  
.....ACCUSED

**RULING**

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 (Cap 63) Laws of Kenya. The particulars of the offence are that on the night of 3<sup>rd</sup> and 4<sup>th</sup> November 2024 at Rufus Apartment, Riruta Kawangware in Dagoretti Sub County within Nairobi County murdered Namphy Sheldon Kimanzi. The accused took plea and pleaded not guilty to the offence of murder.
2. He has now approached this court seeking to be released on reasonable bail/bond terms pending his trial. It was submitted that there were no compelling reasons advanced by the prosecution for denial of bail which was a constitutional right. He prayed that he be released on reasonable bail/bond terms.
3. The application for bail/bond was not opposed by the prosecution.
4. Article 49(1) (h) of the Constitution guarantees the right of an arrested person to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released. The onus of proof in bail applications in respect of compelling reasons is borne by the state under section 123A of the Criminal Procedure Code (Cap 75)

Laws of Kenya. The right for an accused person to be released on bail is not absolute.

5. The constitution specifically requires that under Article 49(h) that terms of bail to be attached to an accused shall be reasonable. Besides the exceptions limiting the right to bail under section 123A of the Criminal Procedure Code, Article 49 (h) of the Constitution places the burden of proof on the state to demonstrate compelling reasons. It is therefore upon the prosecution to prove that there are compelling reasons why the accused should not be released on bail.
6. This Court called for and received a pre-bail report by the Probation Officer. The report indicates that the accused is a 32-year-old Kenyan male. He lawfully married the victim's mother in 2022 after cohabiting since 2018. They were blessed with one child, the victim herein, whose life was cut short at the age of four years and nine months. The accused therefore has no current dependants. He holds a degree in Mechatronic Engineering and has no previous criminal record or history of bail or bond admission. The report, however, discloses a history of alcohol abuse. While he considers himself mentally sound, his family and the community express concern over his mental wellness, noting a history of mental illness and recommending a mental assessment.
7. Reports from the accused's maternal family and the local administration are generally positive, with support for bond subject to a mental health assessment. The Investigation Officer raises no objection to bond.

8. The accused's family is willing to secure bond using a family land title, with his mother ready to stand surety. His proposed abode is his maternal uncle's residence in Limuru. However, his wife, who is the victim's mother and a key witness, resides within Nairobi, raising safety concerns due to proximity.
9. The victim's mother remains deeply traumatised by the brutal death of her child. She expresses grave fear of re-victimisation arising from prior domestic violence and threatening utterances allegedly made by the accused on the material day. These concerns cannot be ignored and weigh heavily in the consideration of bond.
10. While the right to liberty of the accused is constitutionally protected, it is not absolute and must be balanced against the rights and protection of victims, as well as the wider public interest in the proper administration of justice. Given the circumstances of this case, the traumatic impact on the victim's mother, the history of domestic violence, and the unresolved concerns regarding the accused's mental wellness, I find that these are compelling reasons that cannot be ignored.
11. In light of the matters placed before this Court, and in particular the grave safety concerns raised by the victim's mother, who is also a key prosecution witness, I am satisfied releasing the accused on bail/bond at this stage would expose key prosecution witnesses to a real risk of intimidation, interference, or further harm.
12. Accordingly, the application for bond is declined for now. However, this issue may be revisited at a later stage of the trial,

upon the testimony of the key prosecution witnesses, should circumstances materially change.

Orders accordingly.

**Ruling dated and delivered virtually this 2<sup>nd</sup> day of  
December 2025**

**D. KAVEDZA**  
**JUDGE**

**In the presence of:**

Ms. Timoi for the Prosecution

Mr. Mandela for the Accused

Ms. Karimi Court Assistant.

ORIGINAL