

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. E019 OF 2025

LUCY NJOKI KANG'ETHE.....
APPLICANT

-VERSUS-

REPUBLIC.....
RESPONDENT

RULING

1. The accused, *Lucy Njoki Kang'ethe*, is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. It is alleged that on 17th August 2024 at Njoguini village in Kandara subcounty within Murang'a County murdered *John Kang'ethe Mwema*.
2. On 30th September 2025 the accused was arraigned before Court and denied the charge. A plea of Not Guilty was entered. Accused's counsel was granted leave to file a formal Application for Bail/Bond within 3 days.
3. On 14th October 2025 the accused filed an Application for Bail/Bond dated 1st October 2025 through her counsel seeking to be admitted to bail pending trial on such terms as the Court will find suitable. In her Supporting Affidavit dated 1st October 2025, the accused deposed that there are no compelling reasons for remanding her in custody pending trial. That her family members are not opposed to her being granted favourable bail/bond terms and that she is ready to abide by the bail/bond terms issued by the Court.
4. The Court directed that a Bail Information Assessment Report be submitted and same was filed on 20th November

2025 by *Esther Maina*, the Assistant Director, Department of Probation and Aftercare Service Murang'a County.

5. On 2nd December 2025, the office of the Director of Public Prosecutions (ODPP) informed the Court that it was not opposed to the accused's application seeking bail/bond pending trial.
6. Having considered the application, the affidavit sworn in support and the pre-Bail report filed on 20th November 2025, the Court adopts the following view of the matter.
7. The right to bail or bond pending trial is a constitutional right of every arrested or accused person which is protected in **Article 49 (1) (h)** of the Constitution of Kenya which provides as follows:

"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."
8. From the above provision, it is clear that the right to bail or bond is not absolute and the same can be denied if the prosecution established compelling reasons warranting denial of bail or bond.
9. The phrase compelling reasons was defined by the Court of Appeal in the case of **Michael Juma Oyamo & another V Republic (2019) eKLR** in which the court cited with approval the High Court decision in **Republic v Joktan Malende and 3 Others Criminal Case No. 55 of 2009** wherein the phrase compelling reasons was defined as follows:

"The phrase compelling reasons would denote reasons that are forceful and convincing as to make

the court feel very strongly that the accused should not be released on bond. Bail should not therefore be denied on flimsy grounds but on real and cogent grounds that meet the high standards set by the Constitution.”

10. In the instant case, the pre-Bail report filed on 20th November 2025 recommended that based on the nature of the offence for which the accused is remanded awaiting trial and the obtaining environment on the ground, it is not be safe to admit the accused to bail/bond terms at the current moment.
11. The aforesaid pre-Bail report further noted that the secondary victims of the deceased's demise being the children of the deceased and the accused person, upon being interviewed, strongly opposed the accused's request for bail/bond.
12. The Court is alive to the fact that at the time of the deceased death, the deceased and the accused person were living together in their matrimonial home situated on the deceased's ancestral land, together with their lastborn child who sat the KCPE examination or its equivalent in 2025.
13. The pre-Bail report filed on 20th November 2025 noted that deceased's siblings have threatened to retaliate against the accused person in the event she is granted bail/bond. The aforesaid report also stated that the Chief in charge of the locality where the accused's persons home is located warned that the accused's safety is likely to be at risk from the local community if granted bail/bond.
14. The Court is alive to the fact that the accused person was residing at her matrimonial home which she had inhabited

for 34 years prior to her arrest in respect of the subject charges.

15. The Court further notes that the accused's brother expressed his willingness to find an alternative place of abode for the accused in the event she is granted bail/bond. Flowing from the foregoing, the Court hereby allows the application on the following terms:

- i. The accused will be released from custody upon signing bond of Kshs. 500,000.00 together with one surety of a similar amount.***
- ii. Upon her release, the accused shall attend mentions as directed by court.***

DATED, SIGNED AND DELIVERED PHYSICALLY THIS 17TH DAY OF DECEMBER, 2025.

**HON. T. W. Ouya
JUDGE**

**For Accused.....Wangui Wangai
For Republic..... Ms. Nzuki
COURT ASSISTANT.....Brian**