



**Republic v Githii (Criminal Case 1 of 2023)
[2025] KEHC 18624 (KLR) (15 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18624 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 1 OF 2023
DR KAVEDZA, J
DECEMBER 15, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

PAUL NDUNG’U GITHII ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 of the Penal Code, Cap 63 Laws of Kenya. The particulars of the offence are that on 23rd September 2023 at about 11.30 am at Mutuini-Adonai area, in Dagoretti Sub-County murdered Ayub Kamuyu. The accused took plea and pleaded not guilty to the offence of murder.
2. The accused’s initial application for bail was dismissed by this court on 5th December 2024 and a subsequent application for review dismissed on 26th February 2025 on the ground that the accused had not demonstrated changed circumstances. He has now lodged a second application for bail, alleging changed circumstances.
3. Mr Wandugi, learned counsel for the accused, submitted that his client has been in custody for approximately two years since September 2023. Counsel noted that a previous application for bail was declined on account of hostility within the community, with the Court indicating that the issue could be revisited should circumstances change. He argued that circumstances have since materially changed, as nine prosecution witnesses have testified, including those most aggrieved, thereby substantially mitigating the risk that previously informed the Court’s decision.
4. Counsel contended that the continued denial of bail on grounds of hostility amounts to a failure by the State to discharge its constitutional duty to guarantee individual security. He relied on the decision in David Njuno Mbiyu Muse v Republic, Nakuru Criminal Application No. 86 of 2010, where the



- Court affirmed the State's obligation under Articles 29 and 238 of *the Constitution* to ensure the safety of all persons.
5. He further submitted that the accused's family has relocated from Dagoretti to Kikuyu to eliminate any potential contact. Counsel drew the Court's attention to annexed documents, including proof of residence and medical records, demonstrating that the accused suffers from poorly controlled medical conditions due to inadequate access to medication. He urged the Court to reconsider its earlier ruling and grant bail on appropriate terms, in the interests of justice.
 6. In response, Ms Timoi opposed the application and relied on the affidavit sworn by PC Fred Ambasa dated 29 September 2025. She submitted that no change of circumstances has been demonstrated to warrant a review of the earlier decision denying the accused bond. Counsel argued that the accused has not shown any new or exceptional factors since the initial ruling.
 7. It was further contended that there remains a real and credible risk that, if released, the accused may interfere with key civilian prosecution witnesses, namely Kennedy Matum, Boniface Manyeki and John Mwangi, who are yet to testify. Counsel noted that the Court had previously directed that the application could be renewed after the testimony of key civilian witnesses, a threshold that has not yet been met.
 8. Ms Timoi also submitted that hostility within the community persists and that the accused's release would jeopardise both his personal safety and public order. She referred to an altercation between the families of the accused and the deceased at the court premises on 24th July 2025 as evidence of ongoing hostility. She argued that relocation from Dagoretti does not negate the continuing security risk, particularly given the accused's obligation to attend court.
 9. I have considered the application, and the applicable law. The issue is whether the applicant has established the existence of changed circumstances to warrant the grant of bail pending trial. In *Republic vs. Francis Maina Wairimu* [2020] eKLR, Wakiaga J held that:

“In an application for review for denial of bail, the applicant is under a duty to convince the court that there had been change of circumstances from the time when he was denied bail to warrant the court reviewing its earlier orders”.
 10. While the burden of demonstrating changed circumstances in a bail review application lies with the accused, that burden is assessed against the constitutional presumption in favour of bail unless the prosecution establishes compelling reasons for denial.
 11. In the present case, since the earlier ruling, nine prosecution witnesses have testified, including those most directly affected by the offence. The risk of interference with witnesses, which previously weighed heavily against release, has therefore substantially diminished.
 12. Further, the accused's family has since relocated from the area where the offence was allegedly committed. This relocation materially reduces the likelihood of contact with the deceased's family and the surrounding community, and mitigates the concerns previously raised regarding hostility on the ground.
 13. The continued detention of the accused in these circumstances would not be proportionate. *The Constitution* guarantees the right to bail, subject only to the existence of compelling reasons, and the accused is presumed innocent until proven guilty. The Court retains discretion to impose stringent preconditions to address any residual concerns, including reporting requirements, restrictions on movement, and non-contact orders.



14. Balancing the right to liberty against the interests of justice, the Court finds that the earlier compelling reasons no longer subsist to the same degree. The accused can therefore be released on bail on appropriate and carefully tailored conditions to secure his attendance and protect the integrity of the trial. The Court is satisfied that changed circumstances have been demonstrated to justify a reconsideration of bail.
15. Accordingly, the application for bail review is allowed in the following terms:
- i. The accused is admitted to cash bail in the sum of Kenya Shillings Two Hundred Thousand (Kshs. 200,000) with one contact person.
 - ii. In the alternative to order (i), the accused is admitted to a bond in the sum of Kenya Shillings Five Hundred Thousand (Kshs. 500,000) with one surety of a similar amount, to be approved by the Court.
 - iii. The accused shall not enter or be found within the vicinity where the offence is alleged to have been committed.
 - iv. The accused, his family members or relatives shall not, directly or indirectly, engage, contact or interfere with the victim's family, whether within court precincts or elsewhere.
 - v. The accused shall report to the investigating officer once every month on a date to be mutually agreed upon.
 - vi. In the event of any breach of the foregoing conditions, the bail or bond shall stand cancelled, and the accused shall be liable to immediate arrest and shall remain in custody for the remainder of the trial unless otherwise ordered by the Court.

Orders accordingly.

RULING DATED AND DELIVERED THIS 15TH DAY OF DECEMBER 2025

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D. KAVEDZA

JUDGE

In the presence of:

Ms. Timoi for the Prosecution

Mr. Kiru h/b for Mr. Wandugi for the Accused

Mr. Kinyanjui for the Victims.

Karimi Court Assistant.

