

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT THIKA**  
**CRIMINAL CASE NO. E012 OF 2025**

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**REPUBLIC.....PROSECUTION/  
RESPONDENT**

**VERSUS**

**JOEL GITHIKA KARIUKI.....1<sup>ST</sup>**

**ACCUSED/APPLICANT**

**STEPHEN CHEGE MAINA.....2<sup>ND</sup>**

**ACCUSED/APPLICANT**

**DAVID KIRAGU THUO.....3<sup>RD</sup>**

**ACCUSED**

**R U L I N G**

**Brief facts**

1. The application for determination dated 4<sup>th</sup> November 2025 seeks for review of the bond terms issued by the court and grant the applicants an alternative of cash bail on favourable terms.
2. The applicants states that they were charged with the offence of murder and were arraigned before the instant court. It was further stated that the court graciously ordered for their release on bond in the terms of Kshs. 1 million bond each. The applicants argue that the said

amount is quite excessive to them and their families have only managed to raise Kshs. 500,000/- in bond each.

3. The applicants state that they are ready and willing to abide by any terms that the instant court may impose as a precondition to their admission to bail or bond. The applicants further state that they have a constitutional right to be admitted to reasonable bail/bond terms pending his trial.
4. In opposition to the application, the respondent filed a replying affidavit dated 25<sup>th</sup> November 2025 and states that the applicants were charged with murder contrary to Section 203 as read with section 204 of the Penal Code. The applicants pleaded not guilty and the bond terms were set thus a bond of Kshs. 1 million each with a surety of similar amount.
5. The respondent states that the applicants' bond terms earlier set are very reasonable considering the magnitude of the offence which is very serious and attracts a severe penalty. Further, the bond terms are commensurate to the charges levelled against the applicants.
6. The respondent states that the bond terms set is meant to ensure that the applicants attend court without fail. Further no peculiar circumstances have been advanced by the applicants to warrant upsetting the earlier bond terms. Further, the third accused person is already out on

bond with earlier set bond terms and thus the bond terms should be uniform as there is no justification for giving different bond terms to accused persons charged with the same offence.

7. Parties put in written submissions.

### **The Accused Persons/Applicants' Submissions**

8. The applicants rely on **Article 49(1)(h) and 50(1) of the Constitution** and **Sections 123(3) and 123A of the Criminal Procedure Code** and submit that they have a right to be released on reasonable bail or bond terms as they have a right to be presumed innocent until proven guilty. The applicants further submit that they have a fixed place of abode close to the jurisdiction of the court and shall be living with a possible surety, which information the court can establish at the hearing of the instant application and they are therefore not a flight risk. Further, the place of abode shall be far from the alleged crime scene and thus there is no fear on interference with the community.

### **The Respondent's Submissions.**

9. The respondent relies on the case of **Taiko Kitende Muinya [2010] eKLR** and the **Bail and Bond Policy Guidelines** and submits that bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Further, the respondent relies on the case of

**Andrew Young Otieno vs Republic (2017) eKLR** and submits that bail or bond conditions should be appropriate to the offence committed and take into account the personal circumstances of the accused person. The respondent argues that the applicants have not demonstrated any peculiar circumstances to warrant upsetting the earlier set bond terms. The respondent urges the court to consider the charges the applicants are facing and the likely sentence to be

imposed if they are found culpable. Thus, the respondent submits that the bond terms imposed earlier were reasonable.

### **The Law**

10. In granting bail/bond, the court must ensure that bail or bond terms must not be excessive or unreasonable and should not be far greater than what is necessary to ensure or guarantee the accused person's appearance before court.
  
11. The **Bail and Bond Policy Guidelines at paragraph 3.1 (d)** underpins the right to reasonable bail and bond terms as follows:-

**Bail or bond amounts and conditions shall be reasonable, given the importance of the right to liberty and the presumption of innocence. This means that bail or bond amounts and conditions**

**shall be no more than is necessary to guarantee the appearance of an accused person for trial. Accordingly, bail or bond terms should not be excessive, that is, they should not be far greater than is necessary to guarantee that the accused person will appear for his or her trial.**

**Conversely, bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Secondly, bail or bond conditions should be appropriate to the offence committed and take into account the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by reference to the facts and circumstances prevailing in each case.**

12. In the present case, the 1<sup>st</sup> and 2<sup>nd</sup> accused persons face charges of the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The 1<sup>st</sup> and 2<sup>nd</sup> accused persons both entered a plea of not guilty on 8<sup>th</sup> May 2025 and were each granted a bond of Kshs. 1 million with one surety of similar amount. Although both the applicants have proposed Kshs. 500,000/- in bond, the court considers the same to be a bit on the lower side considering the seriousness of the offence. The lower the amount presents a risk of absconding which this court has a duty to safeguard.

13. It is my considered view that the existing bond terms are reasonable should not be interfered with.
14. I find the application dated 4<sup>th</sup> November 2025 lacking merit and it is hereby dismissed with no order as to costs.
15. It is hereby so ordered.

***RULING DELIVERED VIRTUALLY, DATED AND SIGNED  
AT THIKA THIS 18<sup>TH</sup> DAY OF DECEMBER 2025.***

**F. MUCHEMI  
JUDGE**