



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E014/2025

REPUBLIC VS BENSON BAYA AND HAMISI KITSAO AND 1 OTHER(S)

RULING

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE NO. E014 OF 2025.**

REPUBLIC..... PROSECUTOR

VERSUS

BENSON BAYA YAA..... 1ST ACCUSED
HAMISI SINEMA KITSAO..... 2ND ACCUSED
AMIN RUWA NZAI..... 3RD ACCUSED

RULING ON BOND

1. Benson Baya Yaa the 1st accused person herein together with his co-accused have been charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 Laws of Kenya. They pleaded not guilty to the offence. This Court gave each of the three accused person a bond of ksh. 300,000/- with a surety of a similar amount or an alternative cash bail of ksh. 200,000/- with 2 contact persons.
2. The 2nd and 3rd accused person managed to meet the bond conditions and they were released. However, the 1st accused person failed to raise the same and prayed for review of the bond conditions. He stated that his family could only raise ksh. 50,000/- and prayed that the cash bail be reduced. This court requested the Probation department to prepare a bail information report and the same was filed on 18/12/2025.
3. The purpose of bail is to ensure the attendance of the accused at his trial and



not to seek to evade justice. The amount of bail will vary according to the circumstances and the nature of the offence, the possible punishment and the station or position in life of the accused. It should not be more than will probably secure the attendance of the accused, and should never be so large as to amount to a denial of bail. Each case should be treated on its own merit. The guideline is the available evidence.

4. Instantly, I have perused the bail information report and note that Benson Baya Yaa looks after his mother and his family. He is a person living with HIV. He is not a flight risk and has a fixed abode at Mavueni Location within Kilifi County. His family has no tangible property to offer as collateral. I also note that they are neighbors with the family of the primary victim and they are bound to meet from time to time.

5. In light of the above, it must always be remembered that the grant of bail is not automatic. It is always at the discretion of the Court. It is upon the court to weigh the available evidence for and against the grant of bail.

6. Therefore, I am inclined to revise the bond terms in the following conditions; -

- i. The 1st accused person to deposit with the court a sum of ksh. 100,000/- with two contact persons.
- ii. The 1st accused person will undertake not to make any contacts, whether directly or otherwise with any of the witnesses to be summoned by the prosecution.
- iii. The 1st accused person shall not leave the jurisdiction of this court without prior orders of the court.
- iv. The 1st accused person shall attend all court sessions when and if so required.
- vi. DELIVERED, DATED and SIGNED at MOMBASA on this 12TH DAY OF FEBRUARY 2026.
- vii. Ruling delivered through Microsoft Teams Online Platform.
- ix.

WENDY KAGENDO MICHENI
- x.

JUDGE
- xi. In the presence of;-
- xii. THE APPLICANT - MR MWAWAS
- xiii. MR SIRIMA FOR THE STATE - MR KONYA
- xiv. BEBORA COURT ASSISTANT



SIGNED BY/FOR:
HON. LADY JUSTICE WENDY MICHENI



THE JUDICIARY OF KENYA.
MOMBASA HIGH COURT
HIGH COURT CRIMINAL
DATE: 2026-02-12 12:53:45

