

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MURANG'A
CRIMINAL CASE NO. E012 OF 2025

WISON NDUNG'U KINUTHIA.....
APPLICANT

-VERSUS-

REPUBLIC.....
RESPONDENT

RULING

1. The accused, *Wilson Ndung'u Kinuthia*, is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Particulars are that on 2nd day of June 2025 at Samar area in Murang'a South subcounty within Murang'a County murdered *Caroline Wairimu Gichiri*.
2. On 1st July 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.
3. On 15th July 2025 the accused filed an Application for Bail/Bond of even date through his counsel seeking to be admitted to bail pending trial on such terms as the Court will find suitable. In her Supporting Affidavit of even date, 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 noted that a Bail Information Assessment Report had been 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 17th 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 10th July 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 10th July 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 10th July 2025 indicates that the accused's family have resources and are willing to support him if he is released on bail /bond.
14. The court has considered the accused's application entirely together with the Probation report which is not favourable for the accused's release on bond at the moment.
- 15. Based on the above, the application for bail bond is denied at this stage pending hearing of key witnesses and a further review by the Director probation and Aftercare services.***

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 19TH DAY OF MARCH, 2026.

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

**For Accused.....Ms Mwangi
For Respondent.....Mr. Mwakio
COURT ASSISTANT.....Brian**

ORIGINAL