

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KIAMBU
HCCR CASE NO. E017 OF 2022

REPUBLICDPP

VERSUS

ISAAC MUREU WAWERU.....1ST ACCUSED/APPLICANT
JOSEPH MUTHOTHU WANJIKU.....2ND ACCUSED
ANTHONY NGIGI KAMATHI.....3RD ACCUSED

RULING

1. The 2nd accused person, **Joseph Muthothu Wanjiku** is seeking to have the bond terms he was granted reviewed on the ground that his family is unable to raise the surety or the amount of cash bail that was determined by this court on the application by all the accused persons to be released on bond. vide a ruling delivered on 3rd day of November, 2022, the court granted the 2nd and 3rd accused persons release on a bond of Kshs.2 Million with two sureties of a similar amount each.
2. The court then called for a prebail report in respect of the 2nd accused person and the same was filed on 15th December, 2025. In this report the Probation

Officer analysed the 2nd accused person's background, personal circumstances and means, use of drugs and substances, any previous adherence to bond terms, the seriousness of offence, victim concerns alongside community ties in coming up with the conclusion and recommendation.

3. In conclusion, the Probation Officer has stated that the 1st accused person is a 24 year old man who was working as a casual labourer and was raised by a single mother who also engages in casual jobs and lives at her paternal parents' piece of land. According to findings in the Prebail Information Report, the Applicants' mother does not have any security to deposit in court since she inherited the land in the Succession Court at Limuru. She has urged that the court grants the 2nd accused release on a cash bail of Kshs.100,000/= which she hopes to fundraise from friends.
4. The area administration and the community are reported to be familiar with the family of the 2nd accused person and hence do not oppose his release on bond as they believe that justice will eventually prevail. Further, they maintain that he is not a threat to the community.

5. On the part of the deceased's family, they are opposed to the release of the 2nd accused person on bond terms since they are still mourning the demise of their kin.

6. In her recommendations, the Probation Officer stated that the 2nd accused is not a flight risk, has a fixed place of abode, save that his mother cannot afford the earlier bond terms granted and requests for a lenient cash bail of Kshs.100,000/= which she hopes to raise through a fundraiser with friends.

Analysis and Determination

7. I have carefully read through the grounds upon which the application is premised alongside the record of proceedings herein and the Prebail Report Information Reports filed herein to determine the application for review of bond terms by the 2nd accused person.

8. It is worth reiterating that in a ruling delivered on 3rd November, 2022, Justice Kasango, (as she then was), granted the 2nd accused release on bond/bail in the sum of Kshs.2 Million with two sureties of similar amounts. It is this order that the Applicant finds punitive and inhibitive on his freedom.

9. It is also noted that since the initiation of this case, the 2nd accused person has been in custody. This is a clear indication that the accused and or his family have not been able to raise that bond terms. Liberty is precious and anyone would do all that pertains their status to secure the same. Hence in this court's view, I believe the 2nd accused would not have remained in custody for over three (3) years if they can be able to raise the bond/bail terms.

10. In this regard, the court is alive to the fact that the main purpose of bond/bail term is to ensure the attendance of an accused person in court as and whenever he/she is required. It is not meant to punish the accused persons.

11. It is trite that the right to bail and bond as provided for under **Article 49(1)(h) of the Constitution** states that:-

An accused person has the right ...

(h) to be released on bond or bail, on reasonable conditions pending a charge or trial, unless there are compelling reasons not to be released.'

12.The Judiciary Bail and Bond Policy Guidelines underscores this constitutional principles that courts must ensure that the bond/bail terms are reasonable and not excessive and should be tailored to unique circumstances of a case.

13.In this case, the court had taken consideration the sentiments brought out in the oral application, the findings and recommendations in the **Bail Information Report** filed in respect of the 2nd accused person alongside the period he had stayed in custody since his arrest in the year 2022. It is glaringly clear that his continued detention is due to the financial ability of his family to raise the bond terms granted vide the ruling delivered on 3rd November, 2022. To achieve the constitutional objective of securing the 2nd accused person's liberty while ensuring his attendance in court, this court proceeds to find that the 2nd accused had demonstrated sufficient reasons to warrant a review of the bond terms set out in the ruling delivered on 3rd November, 2022.

14.Accordingly, the application for review of the said bond terms issued on 3rd November, 2022 and the same are hereby varied and substituted as

followed:-

- a) *The 2nd accused person may be released on a bond of Kshs.500,000/= with one surety of similar amount.*
- b) *In the alternative, the 2nd accused to be released on a cash bail of Kshs.200,000/=.*
- c) *The 2nd accused person to provide a contact person in terms of occupation, place of residency or abode.*
- d) *The 2nd accused person to attend court whenever he is required until the case is finalised.*
- e) *Failure to abide by any of the conditions set above, the bond terms will be rendered cancelled and the accused to be remanded in custody.*

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU
THIS 11TH DAY OF MARCH, 2026.**

**D. O. CHEPKWONY
JUDGE**