



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Monene (Criminal Case E2816 of 2024)
[2025] KEMC 156 (KLR) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEMC 156 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
CRIMINAL CASE E2816 OF 2024
PA NDEGE, SPM
JULY 10, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

DUKE MAKORI MONENE ACCUSED

RULING

1. This ruling resolves the accused’s application for substitution of the surety-based bond with cash bail. The accused, Duke Makori Monene, was granted bond on 26th May 2025 in the sum of Kshs. 100,000 with one surety of similar amount. He now seeks cash bail, citing inability to secure a surety.
2. The accused, Duke Makori Monene, faces a charge of threatening to kill contrary to Section 223(1) of the *Penal Code* Cap. 63 . The particulars allege that on 29th December 2024 at Kaptembwo, Nakuru, while armed with a knife, he threatened to kill Vivian Kemunto, stating: “Nataka kukuua, huu mwaka hautaisha kabla sijakuua”.
3. The accused was arrested on 30th December 2024 and taken to court on 31st December 2024. The accused pleaded not guilty to the charge. A pre-bail report prepared by Ian Ng’eno from the nakuru probation office dated 26th May 2025 assessed the accused’s suitability for bail variation, highlighting:
 - a. His humble background as a casual laborer;
 - b. Lack of financial capacity to secure sureties;
 - c. Strong family ties (married with two children);
 - d. Remorse and attribution of offense to alcohol intoxication



4. Notably, the complainant Vivian Kemunto, his wife, has since filed a request to withdraw the case dated 25th February 2025, stating she wishes to reconcile with her husband who is the family's sole provider. The request is still awaiting consideration by the court and the prosecution.
5. Article 49(1)(h) of the Constitution guarantees the right to bail on reasonable terms, unless compelling reasons exist. Bail and bond terms are required to be affordable, reasonable and not more than is necessary to guarantee the appearance of an accused person for trial, as referenced from Bail and Bond Policy Guidelines.pdf at page 9 together with section 123(2) of the Criminal Procedure Code Cap. 75 and in Harish Mawjee & another v Republic [2020] KEHC 1861 (KLR) .
6. Based on the pre-bail report and applicable law, this court finds:
 - a. The accused has proven inability to secure a surety, making the current bond terms oppressive.
 - b. He is a first-time offender with a fixed abode, and family dependents.
 - c. Cash bail is a reasonable alternative under Section 123 CPC and Article 49(1)(h).
 - d. The original bond amount Kshs. 100,000 is excessive given his socio-economic status.
7. For the above reasons, I am inclined to consider the applicant's application favorably. The court, in the circumstances, I hereby make the following orders:
 - a. The accused's application for cash bail is granted.
 - b. The cash bail is set at Kshs. 30,000, payable to the court registry with one contact person.
 - c. The contact person shall avail a copy of his/her National Identity Card, a passport photo and a chief's letter indicating that he/she has known the applicant for a period of more than 12 months, all to be approved by the court.
 - d. The accused shall attend all court sittings including mentions and hearings on a mandatory basis.
 - e. Non-compliance will result in immediate bail revocation.
8. It is so ordered

DATED AND DELIVERED AT NAKURU THIS 10TH DAY OF JULY ,2025

HON A.P NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Court Interpreter: Janet

Prosecution counsel: Macharia

Accused person: Present

Victim: Absent

