



REPUBLIC OF KENYA



**KENYA LAW**

THE NATIONAL COUNCIL FOR LAW REPORTING

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**Republic v Macharia & another (Criminal Case E1195 of 2025)  
[2025] KEMC 148 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEMC 148 (KLR)

**REPUBLIC OF KENYA  
IN THE NAKURU LAW COURTS  
CRIMINAL CASE E1195 OF 2025  
PA NDEGE, SPM  
JULY 1, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JECINTA WAMBUI MACHARIA ..... 1<sup>ST</sup> ACCUSED**

**CHARLES MWANGI KIUMU ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. It is alleged herein that the accused persons herein on 025<sup>th</sup> May, 2025 at around 0900hrs at Jawathu area in Njoro sub-County within Nakuru County, jointly with others not before court, unlawfully did grievous harm to Alice Wangui Kiumu.
2. Whereas there was no objection from the prosecution, the victim, through her learned counsel, Ms. Macharia, has objected to the release of the accused on bond or bail. The ground for the objection is that the accused persons are likely to interfere with witnesses if released on bond/ bail, given that the complainant, the witnesses and the accused are family members. Learned counsel for the victim therefore prayed that the accused be remanded in custody until the conclusion of this matter.
3. This court called for the aid of Pre-bail reports which were filed herein on both dated 25/06/2025. They revealed that the complainant or the victim herein is a step daughter to the accused persons. The victim's view was simply that the law does take its course and there was no issue that came out strongly that she opposed the release of the accused persons on bail/bond
4. The principle law on bail- bond is in article 49(1)(h) of the *constitution of Kenya 2010*, which gives the accused person 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.



5. At the same time, the criminal procedure code empowers a court to admit a person accused of offence to bail or release on executing a bond with sureties for his or her appearance. Further, the criminal procedure code provides that the amount of bail shall be fixed with due regard to the circumstances of the case and shall not be excessive.
6. In the case of *Republic v Robert Zippor Nzilu*, Criminal Case No. 4 of 2018, It is trite law that granting bail entails the striking of a balance of proportionality in considering the rights of the applicant who is presumed innocent on the one hand and the public interest on the other. The cornerstone of the justice system is that no one should be punished without the benefit of due process. Incarceration before trial, when the outcome of the case is yet to be determined, cuts against this principle.
7. Bail and bond decision making is however often guided by certain principles such as the right to be presumed innocent unless proven guilty, the accused person's right to liberty, the accused obligation to attend trial, right to reasonable bail and bond terms, balance between the rights of the accused person and the interests of justice and consideration for the rights of victims.
8. Bail or bond conditions should be appropriate to the offence committed and consider 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. In *Andrew Young Otieno v Republic* (2017) eKLR, the court agreed with the Applicant that the purpose of imposing bond terms is to secure the attendance of the accused before the court during trial. The terms imposed by the trial court should not be such that it amounts to a denial of the constitutional right of the accused to be released on bail pending trial. The trial court must consider the circumstances of each accused when determining bond terms to be imposed.

#### **Determination**

9. Considering the above principles and factors, I do hereby order that the accused persons may be released on a bond of Kshs. 100,000.00 with 1 surety of a similar amount or a cash bail of Kshs. 30,000/- for each. The accused not to inappropriately interfere with the complainant or the witnesses in this case. they are accordingly advised.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 01ST DAY OF JULY, 2025**

**ALOYCE-PETER-NDEGE**

**SENIOR PRINCIPAL MAGISTRATE**

In the presence of;

...Janet.....Court assistant/ interpreter

...Smith.....present for DPP

Chaungo h/b Towett for the Accused

Macharia present for victim/ complainant

Accused persons- present.

Accused person –

