



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
HCCR. E050 OF 2025

REPUBLIC **PROSECUTOR**
VERSUS
JOEL MWENDA **ACCUSED**

RULING

1. JOEL MWENDA, the Applicant herein is facing a charge of Murder, Contrary to **Section 203 as read with Section 204 of the Penal Code, Cap 63 Laws of Kenya.**

2. The Applicant prays to be released on bail or bond pending trial and relies on **Articles 49(1)(h) of the constitution of Kenya 2010 and 50 (2)(a).** Article 49(1)(h) provides that:-

“An arrested person has the right to be released on board or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”

Article 50(2)(a) further states that:-

“Every accused person has the right to a fair trial, which includes the right to be presumed innocent until the contrary is proved.”

3. The Respondent opposed the application via an affidavit sworn by the investigating officer, PC Ali Yussuf, dated 31st July 2025.

4. At paragraph 8 of the said affidavit he depones that he opposes the release of the accused on board for the reasons that:-

- **The applicant is deemed a Flight risk since after commission of the offence he went underground and was only arrested on 24th July, 2025.**
- **If he is released he will be in danger as members of the public are baying for his blood.**
- **The Investigating Officer has received reliable intelligence that once released the Respondent will go into hiding.**

5. In response to the said allegations, the Applicant avers that he has continuously resided in Maua since 2021 where he operates a Miraa business, and he is the one who presented himself to the DCI Officers at the time of arrest. He denies that he is a flight risk.

6. The alleged threat to life from hostile public is not supported by any evidence. The issue was not raised at Mau Law Courts where the accused was granted bail.
7. I have considered the application, the Affidavit evidence, and submissions by Counsel.
8. It's not in dispute that the accused is charged with a serious offence carrying a severe penalty. However, seriousness of the offence alone is not a compelling reason to deny bail.
9. The prosecution bears the burden of demonstrating compelling reasons to warrant denial of bail.
10. In the present case:-
 - 1) There's no reliable evidence placed before Court that the accused is likely to abscond.**
 - 2) The accused has demonstrated fixed abode within the Court's jurisdiction of which is not challenged.**
 - 3) There is no allegation raised of his likelihood to interfere with witnesses.**
 - 4) There's no evidence that the accused poses a threat to public order or personal safety.**

11. The Court holds that compelling reasons must be real, cogent and convincing' not speculative or mere allegations.
12. In the absence of such reasons, the Court is obligated to uphold the Constitutional right to bail.
13. Accordingly, I find that the prosecution has failed to establish compelling reasons to deny the accused bond.
14. The Applicant/Accused, is hereby admitted to bond on the following terms:-

Bond of Kshs 200,000/- with two sureties of similar amount.

DATED AND DELIVERED AT MERU THIS 4TH DAY OF MAY, 2026.

S.M. GITHINJI
JUDGE

In the presence of:-

1. Ms. Adhi for the State
2. Applicant
3. Ms. Mbumbuya holding her brief.