



**Republic v Githii (Criminal Case 1 of 2023)  
[2025] KEHC 2500 (KLR) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2500 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL CASE 1 OF 2023  
DR KAVEDZA, J  
FEBRUARY 26, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**PAUL NDUNG’U GITHII ..... ACCUSED**

**RULING**

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 (Cap 63) Laws of Kenya in respect of the death of Ayub Kamuyu. After taking plea, the accused was denied bail by this court on 20<sup>th</sup> March 2024.
2. The reason for the denial of bail at the time was that there was a likelihood that the accused may suffer harm from the community. This is because there was a public outcry from the community due to the gravity of the issue and tempers were yet to cool down. This court was of the view that the accused be remanded in custody till the circumstances changed.
3. The accused has filed the present application dated 13<sup>th</sup> June 2024 seeking a review of the orders issued by the court denying him bail. The application is supported by an affidavit of even date sworn by the accused’s counsel Mr. Wandugi. The averments made in support of the application are that at the time of his arrest, the accused lived with his wife and three children in Kabiria Location, Waitha Division in Dagoretti Sub-County. Since then, his family has abandoned his old residence and rented an apartment. The accused now has an alternative place of abode not known to the community that threatened him. That this was a changed circumstance and the court should grant the orders sought.
4. The application was canvassed by way of submissions where the respondent opposed the application for bail review. The respondents argued that the threats against the accused and his family have persisted even after his family changed residence and during the trial as evidenced in the trial record and OB



reports made. As such, it was submitted that the court should dismiss the application for bail review at this stage.

5. I have considered the application, the submissions made in support and opposition to the application, and the applicable law. The issue is whether the applicant has established the existence of changed circumstances to warrant the grant of bail pending trial. In *Republic vs. Francis Maina Wairimu* [2020] eKLR, Wakiaga J held that:

“In an application for review for denial of bail, the applicant is under a duty to convince the court that there had been change of circumstances from the time when he was denied bail to warrant the court reviewing its earlier orders”.

6. While the burden of demonstrating changed circumstances in an application for bail review may prima facie rest upon the accused, the determination must be made within the overarching principle that an accused person is entitled to bail unless the prosecution establishes compelling reasons to justify refusal. In the present matter, there has been no material change in circumstances since the court's decision to deny bail on 20th March 2024. The case remains highly sensitive, and the impact on secondary victims and the community at large persists.
7. Notwithstanding the presumption of innocence, the court must consider the potential risk to the accused if released on bail, particularly where there exists a real and credible threat to their safety from individuals who may erroneously presume guilt. Public sentiment remains volatile, and the accused's release could compromise both his security and the administration of justice.
8. To uphold the integrity of these proceedings, the court finds that the compelling reasons warranting the initial denial of bail remain valid. The accused has failed to establish any substantial change in circumstances that would justify a departure from the previous ruling. Consequently, this court holds that the grounds for continued detention remain legally and factually sound.
9. The upshot is that the application bail review is denied at this juncture.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 26TH DAY OF FEBRUARY 2025**

**D. KAVEDZA**

**JUDGE**

In the presence of:

Ms. Timoi for the state.

Mr. Wandugi for accused.

Mr. Kinyanjui watching brief for the victims.

Accused – present

Achode – Court assistant.

