



**Republic v Qasim (Criminal Case E076 of 2024)
[2025] KEHC 1911 (KLR) (Crim) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1911 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E076 OF 2024
AM MUTETI, J
FEBRUARY 26, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

AYAANLE MAXAMUD QAASIM ACCUSED

RULING

1. The accused person in this matter is charged with the offence of murder.
2. The accused was charged that on the 24th November 2024 at Miranga bar within Eastleigh area Kamukunji, Nairobi County, he murdered Adan Abdukadir.
3. The accused person pleaded not guilty to the charge.
4. He seeks to be released on bail pending trial and the state is not opposed to his application.
5. Ms. Dela Counsel for the state informed the court that all that the state would be asking for are three conditions namely:
 - i. That the accused persons deposit his passport with the court
 - ii. Two sureties be provided
 - iii. That the court be inclined to consider the pre-bail report
6. This court has perused the pre-bail report dated 12/2/ 2025.
7. The report clearly indicates that the accused is a Somali national who happened to reside in Eastleigh at the time of the incident. It is not clear from the report what exactly brought him to Kenya from Somalia.



8. The accused person's siblings, some live in Nairobi and others live and work in Somalia. The accused studied in Somalia and was doing business in Mogadishu before he came to Kenya and the report does not show when he came into the Country. His status as a resident has also not been explained.
9. His entire nucleus family resides in Somalia as per the pre- bail report.
10. The court is now called upon to determine the terms and conditions of bail that should be imposed in line with Article 49 of the Constitution of Kenya.
11. It is important for this court to highlight that the primary consideration in determining the conditions to be imposed is that the terms should not be excessive and or unreasonable as to render the grant of bail otiose.
12. The court must remember that the primary purpose of bail is to ensure that the accused person turns up for his trial upon release on bail.
13. It is therefore important for the court to ensure that whatever conditions that the court imposes, they mirror the personal circumstances of the accused and are sufficient enough to guarantee that the interests of justice will not be compromised or conditions that guard against the accused not being found as to render the trial impossible.
14. The gravity of the charge must be taken into account by the trial court in assessing and determining the conditions of Bail.
15. The court must at all times lean towards the grant of bail save in those cases where compelling reasons to deny bail are advanced. The state has not opposed the application thus the presumption by the court is that the status of the accused person has been established and that there is no apparent danger in releasing him pending trial. The state is adequately equipped with the necessary tools to make that determination thus this court will not venture into second guessing their decision on the matter.
16. In the end, considering that the accused person is a foreigner and that he has deep roots in a neighboring country whose borders remain porous, the court must balance the scales of liberty against the need to ensure that cause of justice is not defeated. As a result therefore this court orders as follows:-
 - i. That the accused person shall deposit with the court his travel documents (passports) for Kenya and any other country passport that he may be holding.
 - ii. The accused person is to be released on a Bond of Kshs. 3 million plus two Kenyan sureties of similar amount.
 - iii. The accused person shall provide two contact persons who must be Kenyan citizens ready and willing to produce the accused whenever required to attend the court.
 - iv. The accused person to provide details of the location and house where he shall be residing in Nairobi until the matter is heard and determined.
 - v. The accused person shall not leave the county of Nairobi without clearance by the court.
 - vi. Mobile phone number of the accused person to be provided which number he shall use and retain throughout the trial period.
 - vii. Each of the sureties to provide details of their place of abode plus their mobile telephone contacts which they must retain throughout the period of the accused person's trial.



viii. Accused person should not interfere with the prosecution witness until the matter is heard and determined.

ix. Hearing dates to be fixed immediately before release of the accused.

16. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 26TH DAY OF FEBRUARY, 2025.

A. M. MUTETI

JUDGE

In the presence of:

Court Assistant: Kiptoo

Ms Dela for the State

Ms Ndiege for the Accused

Accused: Present

