



**Republic v Wanjiku alias Jimmy (Criminal Case 11 of 2023)
[2025] KEHC 2221 (KLR) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2221 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 11 OF 2023
DR KAVEDZA, J
FEBRUARY 26, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JAMES MBOGI WANJIKU ALIAS JIMMY ACCUSED

RULING

1. The accused is facing a charge of murder contrary to section 203 as read with 204 of the [Penal Code](#) (Cap 63) Laws of Kenya, in respect of the deceased Richard Odhiambo Owino. After taking plea, the accused was denied bail by this court on 2nd October 2020.
2. The reason for the denial of bail at the time was that there was a likelihood of interference with a minor, vulnerable witness. This is because the said witness was known to him and stayed in the same neighbourhood. This court was of the view that the accused be remanded in custody till the time when the evidence of the minor, a vulnerable witness, shall have been taken.
3. The accused has filed the present application dated 19th June 2024 seeking a review of the orders issued by the court. The application is supported by an affidavit of even date sworn by the accused's counsel Allan Chege. The averments made in support of the application are that the accused has been in custody for five (5) years. The trial is yet to conclude. None of the prosecution witnesses elected to testify have held themselves as a relative of the accused. The accused should be presumed innocent until the contrary is proved. He urged the court to grant the orders sought.
4. The application was canvassed by way of oral submissions. Ms. Maina for the state opposed the application maintaining that there were no changed circumstances since one of the witnesses was vulnerable.



5. Mr. Chege submitted that in 2018, the minor witness was 13 years and he is now an adult. He maintained that this represented changed circumstances. He urged the court to grant reasonable bail terms.
6. 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 v. 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 changed circumstances from the time when he was denied bail to warrant the court reviewing its earlier orders”.
7. While the burden of proof with regard to changed circumstances may appear to fall on the accused as the applicant for bail review, it is a matter that falls for consideration under the general principle that an accused person is entitled to bail unless compelling reasons exist for refusal. Since the denial of bail on 2nd October 2020, the vulnerable prosecution witness is yet to testify and there is still a risk of interference. The claim by counsel that the witness is now an adult is not supported by any evidence. The compelling reasons for the denial of bail still exist. It is apparent to this court that the accused has not established the existence of changed circumstances.
8. 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. Maina for the state

Mr. Chege for the accused.

Accused – present

Achode – court assistant

