



**Kang'Iri v Republic (Criminal Case E020 of 2024)
[2025] KEHC 5581 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5581 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE E020 OF 2024
CW GITHUA, J
APRIL 30, 2025**

BETWEEN

SAMUEL GICHURE KANG'IRI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The accused, Samuel Gichure Kang'iri is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The particulars allege that between 16th June 2024 and 18th June 2024 at Karia Village, Murang'a South Sub-County within Murang'a County, he murdered James Mbugua Kang'iri.
3. When he was arraigned in court on 17th September 2024, he denied the charges. On the same date, learned counsel Mr. Ndonga who was holding brief for accused on record Ms. Wangai, made an oral application seeking that the accused be admitted to bail or bond on reasonable conditions pending his trial.
4. The application was opposed by the prosecution through a replying affidavit sworn by the investigating officer CPL Benson Thie on 14th February 2025. The main reason advanced in opposition to the application was that there was extreme hostility towards the accused from members of his community and his safety may not be guaranteed if he was admitted to bail or bond. To substantiate this claim, the investigating officer deposed that there had been a threat to lynch the deceased prior to his arrest and that to express their anger, members of the public had destroyed his one roomed house by removing its door and window.
5. Another reason advanced by the prosecution for opposing the application is that if released, the accused was likely to interfere with prosecution witnesses who were his family members, neighbours and close friends.



6. At the hearing, Mr. Ndonga submitted that the accused ought to be admitted to bond as he was not a flight risk and he was willing to abide by any terms the court may impose as preconditions for his release. He also submitted that the accused had pledged not to interfere with witnesses if released and that though the accused had been given a clean bill of health by the doctors who examined him after he was taken to hospital for treatment, he still complained of ill health and needed to access proper medical attention.
7. On her part, in her brief oral submissions, learned prosecution counsel Ms. Muriu relied on the averments made by the investigating officer in his replying affidavit and emphasized that the prosecution had established compelling reasons that warranted denial of the accused person's right to bail or bond as prayed.
8. I have considered the application, the rival submissions made on behalf of the parties as well as the content of the pre- bail report filed in court on 25th October 2024. I find that the issue arising for my determination is whether the prosecution had established compelling reasons to justify denial of the accused's constitutional right to bail or bond pending trial.
9. It is well settled that under Article 49 (1) (h) of *the Constitution*, every arrested or accused person has a right to be admitted to bail or bond on reasonable conditions pending a charge or trial unless there were compelling reasons not to be released.

There is no scientific method or universal standard of determining what constitutes compelling reasons in all cases since no two criminal cases would have exactly the same facts and circumstances. Each case must therefore be determined on its own merit. However, Section 123 A (2) of the *Criminal Procedure Code* and The Judiciary Bail and Bond Policy guidelines 2015 provides both a statutory and policy framework containing guidelines regarding what may constitute compelling reasons to justify denial of bail or bond.

10. Some of the factors the court should consider in exercising its discretion to grant or deny bond or bail includes the nature and gravity of the offence charged; whether the accused will turn up for his trial if released or was going to abscond; whether he was likely to interfere with investigations or prosecution witnesses ; whether it was in the public interest to admit the accused to bond and whether he should continue to be confined in custody for his own safety and protection.
11. In this case, the prosecution has urged me not to allow the application arguing that if released, the accused's life may be in jeopardy owing to serious hostility towards him from members of the public. The pre- bail report has confirmed that this position. According to the report, the accused person's village mates saw him as a threat to their safety and did not want him back in their midst. The fact that they attempted to lynch him and went to an extent of destroying his house is clear evidence that if released, accused's safety may be endangered. This in my view amounts to a compelling reason to justify denial of bond.
12. In addition, according to the pre- bail report, the deceased in this case is the accused's brother. This gives credence to the prosecution's claim that some of the prosecution witnesses are members of the accused's family and if released, he was likely to interfere with them.
13. For the foregoing reasons, I am satisfied that the prosecution has in this case discharged its burden of demonstrating compelling reasons to mitigate the exercise of the accused's constitutional right to bond or bail pending trial. Consequently, I decline to allow the application. The accused may renew the application if and when the situation at the locus in quo improves and after the witnesses who are members of his family have testified.



It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANGA THIS 30TH DAY OF APRIL 2025.

HON. C.W. GITHUA

JUDGE

In the presence of :

The Accused

Ms. Wangui Wangai for the Accused

Ms. Muriu for the State

Ms. Susan Waiganjo, Court Assistant

