



REPUBLIC OF KENYA



**Republic v Muema (Criminal Case 58 of 2019)
[2025] KEHC 5035 (KLR) (Crim) (28 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5035 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE 58 OF 2019**

MW MUIGAI, J

APRIL 28, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

JULIUS MUOKI MUEMA APPLICANT

RULING

Application For Review Of Bond Terms

1. The Accused person/Applicant Julius Muoki Muema through Certificate of Urgency Application of 15/11/2023 applied for review of bond/bail terms on the basis of Ruling by Hon LJ S.Mutuku who granted Cash Bail Ksh 200,000/- or bond of Ksh 500,000/- with 1 surety.
2. The bond terms have since been unaffordable to the Accused Person/Applicant.
3. The bond terms are excessive as to amount to denial of bail/bond.
4. The Accused person is entitled to be released on bail/bond on reasonable conditions as a constitutional right.
5. The Accused person's continued incarceration in custody despite being granted bail will be considered as a ground to prove his inability to meet bond terms.
6. The Notice of Motion sought orders that the bond/bail terms should be reviewed downwards as per Accused person's application for bond/bail and the Court awarded bond/bail terms.
7. The Ruling delivered on 14/10/2019 that sought Probation Officer Pre-Bail Report which was filed on 13/11/2019 and thereafter the Trial Court delivered Ruling on 14/11/2019 bond/bail terms at Cash Bail Ksh 200,000/- or a bond of Ksh 500,000/- with 1surety.



8. The Office of Public Prosecution (ODPP) represented by Ms Tum on 26/3/2025 confirmed service of the said application and considering it is an application of 2023 opted to respond orally and dispense the matter expeditiously. The bond and bail terms were granted on 14/ 11/2019. The terms are reasonable and sufficient and the terms should not be interfered with and the Prosecution opposed the review on the basis that bond/bail are not to be affordable to be a ground for review. The matter ought to proceed for hearing.
9. In response, the Defense Counsel Mr. Kimaku for Accused person reiterated, the Accused person had been in custody since 2019 and he is innocent until proved guilty. The Court should in the circumstances allow application for review of bond/bail terms and the Accused person will attend Court.

Court Record

10. The Charge/Information of 11/9/2019 reads;
The Accused person is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
The Accused person, Julius Muoki Muema on 13th August 2019 at Dhawabu area in Kayole within Nairobi County murdered Walter Mumo.
11. By letter dated 139/2019, the Accused person was to be taken for mental assessment. Vide Medical Report mental Assessment Report of 19/9/2019, the Accused person was declared fit to plead.
12. The Accused person took plea on 25/9/2019 and charge was read to him and he pleaded not guilty.

Hearing

13. On 20/4/2021, the Accused Person was sick and requested to be taken to hospital and request was granted. On 16/9/2021, the Trial Court was promoted/elevated and matter adjourned. On 15/11/2021, Defense Counsel had a family emergency the matter was adjourned.
14. On 16/11/2021 the Investigation Officer could not be reached his phone was off. On 14/12/2021, the Prosecution was not ready to proceed as the witnesses were not availed. On 15/3/2022, the Accused person was unwell, the Prosecution was ready with 3 witnesses.
15. On 22/23/6/2022, the Trial Court was on official duty. On 6/10/2022, the Accused person was sick, on 13/10/2022 the Accused had not been taken for treatment as per the Trial Court order. On 26/1/2023 5 witnesses were bonded but could not travel from Mwingi & Garissa, previously , they were bonded and they came to Court but were not heard.
16. On 13/3/2023, the Accused person was not produced and Defense Counsel was not present notices were issued hearing scheduled on 8/6/2023, the matter was mentioned on other diverse dates to have Accused person present in Court virtually/physically and hearing scheduled on 9/5/2024 where the Accused made a complaint to the Trial Court over his safety in custody and was transferred to Kitengela Prison. Thereafter, the matter was mentioned for compliance and hearing scheduled for 19/3/2025. On this date, the Defense brought up the pending instant application for hearing and determination.
17. The above outline confirms the Accused person has been in custody since 2019 to date. He was granted bond/bail in 2019 and the hearing of the case delayed due to various reasons on the Court record but importantly, the Prosecution availed witnesses on 2 occasions and the Accused person was sick and therefore the hearing did not take off.



18. . Article 49 (1) (h) of Constitution 2010 provides;
- “An arrested person has the right ... to be released on bond or bail on reasonable conditions pending a charge or trial unless there are compelling reasons not to be released.”
19. Further, by dint of Article 50(2) of *the Constitution*, every accused person is entitled to the presumption of innocence until proved guilty.
20. Therefore; Bail Bond terms were granted by the Court in 2019 Cash Bail Ksh 200,000/- or a bond of Ksh 500,000/- with 1surety. *The Constitution* mandates grant of bond or bail to accused persons should be reasonable and not necessarily affordable.
21. The Court in considering grant of bail or bond is bound to consider the following factors as prescribed by the Bond and Bail Guidelines 2015
- (a) The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.
 - (b) The strength of the prosecution case.
 - (c) The character and antecedents of the accused person.
 - (d) The failure of the accused person to observe bail or bond terms.
 - (e) The likelihood of interfering with witnesses.
 - (f) The need to protect the victim or victims of the crime.
 - (g) The relationship between the accused person and the potential witnesses.
 - (h) The best interest of child offenders.
 - (i) The accused person is a flight risk.
 - (j) Whether the accused person is gainfully employed.
 - (k) Public order, peace and security.
 - (l) Protection of the accused persons.
22. The Trial Court considered these factors in granting bail and bond terms currently on record. The review of bail/bond terms may be considered in light of special circumstances. In this case the Court record confirms the Accused person fell sick several times and the Trial Court intervened to have the Accused person taken to hospital for treatment.

Disposition

1. Therefore, the Court will factor this issue as the basis for review of bail/bond terms as follows;
2. Bond varied from Ksh 500,000/- with 1 surety to Bond of Ksh 300,000/- with 1 surety.
3. Hearing to be expedited scheduled on 1/7/2025.

**RULING DELIVERED SIGNED DATED IN OPEN COURT ON 28/4/2025 IN NAIROBI
CRIMINAL DIVISION**

M.W. MUIGAI

JUDGE



In the presence of

Mr. Mugambi for the Accused person – present online.

Ms. Tum ODPP – present online.

