



**Republic v Chege (Criminal Case E038 of 2024)  
[2025] KEHC 11314 (KLR) (Crim) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11314 (KLR)

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

**CRIMINAL  
CRIMINAL CASE E038 OF 2024**

**MW MUIGAI, J  
JULY 31, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**JOYCE BERNICE WANJIKU CHEGE ..... ACCUSED**

**RULING**

1. The accused person herein Joyce Bernice Wanjiku Chege is charged with the offence murder contrary to Section 203 as read with 204 of the [Penal Code](#) Cap 63 Laws of Kenya.
2. Particulars of the offence being that on the night of 11th September 2024 at Donholm area near Naivas Supermarket in Buruburu Sub-County within Nairobi County she murdered Marcel Orwa Oreng
3. The Accused person was found fit to plead on 30/7/2024, the charge/information was read to her and she pleaded not guilty.
4. The application for bail/bond for Accused person was heard and determined vide Ruling delivered by Hon. L.Mutende LJ on 5/12/2024. The Accused person was granted bail bond of Ksh 500,000/- with 2 sureties of similar amounts. The Court relied on Pre-Bail Report that the Accused person is/was aged 22 years old with 4 year old.
5. On 5/3/2024, the Accused person's Advocate sought review of bail/bond terms as the Accused person could not afford the amount granted by the Ruling.
6. The ODPP opposed bail/bond reduction and stated it was sufficient and should be maintained until the hearing started.



7. The Court suspended the Bail/Bond review awaiting hearing to take off on scheduled date 2/6/2025 which was declared public holiday. On 3/7/2025 next hearing date the Court file was not availed and the matter was not listed. On 9/7/2025 for mention the bail bond application was renewed.

#### **Accused's Written Submissions Dated 23/9/2024**

8. These are the Accused's submissions in support of her Replying Affidavit dated 13 September 2024 in which this court is to admit her to reasonable bail/bond terms.
  1. The Accused is charged with Murder contrary to Section 203 as read with Section 20s of the Penal Code Cap 63 Laws of Kenya.
  2. That on the 11<sup>th</sup> of September, 2023 at Donholm area near Naivas Supermarket in Buruburu Sub-County within the Republic of Kenya murdered Marcel Orwa Oreng.
  3. An oral application was made in court for the accused to be admitted to Bail/Bond which the DPP opposed vide an Affidavit dated 26<sup>th</sup> June, 2024.
  4. The defence is bringing these submissions application on three grounds:
    - (a). That the accused person is innocent until the contrary is proved.
    - (b). That the charge brought against the accused person is bailable under the Constitution of Kenya.
    - (c). That the accused person shall surely avail themselves during the trial.

#### **Accused's Replying Affidavit Dated 13/9/2024**

9. On 26/11/2024 the Accused person filed a Replying Affidavit and stated as follows:-
  1. That I am the accused herein and an adult of sound mind hence competent to swear this affidavit.
  2. That I have read the contents of the Affidavit dated 26th June 2024 filed by the Office of the Director of Public Prosecutions and the same has been further explained to me by my Advocate on record and wish to respond as hereunder.
  3. That in response to paragraph 2 of the Affidavit, I wish to state that the discretion of the court involves considerations of the circumstances of the case and the applicable law.
  4. That the right to bail implements the basic presumption of innocence that the law assumes for every person. And for it to be taken away the Prosecution must show that the reasons it has for opposing bail are within the compelling reasons.
  5. That the prosecution has not tabled sufficient evidence before this court to warrant my bail application to be denied.
  6. That reasonable bail pending trial for any criminal offence is now a constitutional right provided that there is no compelling reason why the court should deny me bail.
  7. That the contents of paragraph 3 of the Affidavit is admitted.
  8. That the contents of paragraph 4 of the Affidavit is denied and the prosecution is put to strict proof thereof.



9. That the contents of paragraphs 5, 6 and 7 of the Affidavit are admitted.
10. That in response to paragraph 8 of the Affidavit, I wish to state as follows:
  - a) That on 11<sup>th</sup> September 2023 at around 2000hrs, I received a call on my phone and my boyfriend at the time, Marcel Orwa (deceased), broke my phone out of anger due to the phone call I received.
  - b) His action angered me and I also took his phone from the sitting room and broke
  - c) He started beating me and hitting me against the wall, despite the fact I was pregnant.
  - d) The commotion in the house led the apartment watchman to come to the house to check what was causing the commotion.
  - e) He said he would call the police to help solve our dispute and left us.
  - f) I decided to go to my house but the watchmen restrained me at the gate and instructed me to return to the house.
  - g) When I returned, I found the deceased lying near the door bleeding and next to him there was a kitchen knife.
  - h) I was shocked at the scene I was met with, I screamed for help but no one came to help me. I then left his house with his phone which I used to call his relatives informing them that he was injured.
11. That in response to paragraphs 9 and 10 of the affidavit, I went to the hospital the next day to be washed following a miscarriage.
12. That further, I stayed in Nairobi for around a month before I went to visit my aunt in Nyahururu. I did not run away.
13. That in response to paragraph 12 of the affidavit, I wish to state that I will live with my grandmother in Soweto within the jurisdiction of this Honourable Court while helping her in running her shop.
14. That further, I have a child of 4 years whom I have been taking care of single-handedly and who needs the love and care of her mother.
15. That in response to paragraphs 13 and 14 of the Affidavit, I wish to state that every person charged with an offence in court is presumed innocent in terms of Article 60 of the Constitution of Kenya until proven otherwise therefore should not lose her liberty unless there are compelling reasons.

### **Republic's Submission on Bail Opposition Dated 7/11/2025**

10. On 25/11/2024 the prosecution filed opposition on bail and stated as follows:
  1. The accused person herein has been charged with 1 count of murder contrary to section 203 as read with section 204 of the Penal Code. Particulars are that on the night of 11th September, 2023 at Donholm area near Naivas supermarket in Buruburu Sub-County within Nairobi County murdered Marcel Orwa Oreng
  2. The Republic filed an affidavit in opposition of bond dated 8th July, 2024 sworn by 1000678 PC Josphat Mungania on 2 major grounds. The grounds are as:



That the accused is a flight risk

This is well captured in paragraph 8,9 &10 of the Republic's affidavit. The accused person stabbed the deceased on his thighs after an alleged fight and took his personal phones and left him in a pool of blood to die. She then took off to Nyahururu County where she was traced after 9 months. After which she learnt that she was being trailed, she relocated to Nakuru county but the officers moved swiftly and managed to arrest her at Wanyororo area in Nakuru County.

3. Further we do submit that, the accused's conduct of fleeing from the scene immediately and relocating without even informing her employer irresistible points at her as a person who is likely to disappear without any trace should she be granted bail.
4. In the case of Republic v John Gatambia Gathoni [2017] Eklr, the Judge stated However the prosecution's fears that the accused is a flight risk is not just flippant. The accused person has given the prosecution reason to be apprehensive that he may not ultimately show up for his trial. He did this by running away after the incident. He was arrested more than 150kms away from Narok County-and even then, only because a relative happened to be in the area. The accused person's explanation that he ran away due to the shock of the incident and needed to calm the tensions in the family is implausible.
5. It is noted that counsel for the Applicant told the Court that the family of the Applicant is waling to relocate her to another area in Kayole Area from where they will ensure that she attends her trial. However, no concrete plan has been placed before this Court to support

#### **Respondent Affidavit in Opposition of Bond Filed on 5/11/2024**

11. On 5/11/2024 no 100678. PC Josphat Mungania, of DCI Boburubo-Nairmibi stated as follows:
  1. That I am a male adult of sound mind and the Investigating Officer in this matter and am competent to swear this affidavit
  2. That although Article 49(1) (h) of the Constitution grants the accused right to bail, the right is not absolute and should be exercised judiciously under courts discretion.
  3. That the accused, Joyce Hernice Wanjiku Chege was charged with one count of murder contrary to section 203 as read with section 204 of the Penal Code.
  4. That the incident occurred on night of 11 September 2023 at Donholm within Buruburu Sub County, within Nairobi County where the accused person murdered Marcel Orwa Orenge.
  5. That the deceased and the accused person were known to be in a relationship over the period of three years they used to stay together on and off since the deceased house located in Donholm known as East Gates Flats.
  6. That on 9 September 2023 the Accused person decided to go the deceased house since he had been trying to call her without reach. She found he was not there and went wy.On 10 September 2023 she went again still did not find him and she decided to wait for him in the house since she had the spare key
  7. That later in the evening the deceased came and they slept. On 11 September the deceased left the house at 1300hrs and returned at 1900hrs with fish which he cooked. There was no electricity so they were using phone torch. When she went to serve the food the deceased is alleged to have poured salt on her food.



8. That its alleged that she received a call which angered the deceased and he broke her phone. She in turn took the deceased phone broke it and they started to fight. It's at this point that the deceased was stabbed at the thighs by the Accused and later left him after taking one of his phones and leaving the deceased on the floor in a pool of blood to die and she took off.
9. That the Accused took off all the way to Nyahururu county to her aunt's house where the police officers traced her and later arrested her in Nakuru Maru-inyi area on 20<sup>th</sup> May 2024.
10. That by the virtue of her conduct of running and hiding for almost 9 months the accused person has demonstrated that she is flight risk. Granting her bond/bail would diminish her likelihood of not attending court but of being traced in the event of absconding.
11. That deceased died and his body had visible stomach injuries and after post mortem it was opined that the cause of death was Ex angulation injury due to stab wound.
12. That the accused has no known fixed place of abode nor place known that she gains employment as the place she used worked at this time her employment is not guaranteed. For this fact we are apprehensive if she is released on bond, he would be a flight risk and defeat justice in this matter.
13. That the accused person herein has been charged with the serious offence of murder and if found guilty the punishment meted out could be that of the death penalty and therefore there are more probabilities and incentives for the accused person to abscond if released on bail or bond pending the determination of the hearing.
14. That the release of the accused person on bond pending the hearing and determination of the trial is not absolute and is at the discretion of this court thus urge this Court in view of the above reasons to find that there are compelling reasons to deny him bond pending hearing and determination of this case.
15. That what is deponed herein is true to the best of my knowledge, belief and information.

### **Analysis & Determination**

12. This is review of bail bond terms Application Republic vs Oby Tylene Oyugi & 11 Others (Nyeri) H.C. CR. C. NO. 38 OF 2010.

It is now well settled that the court's main consideration, when determining an application for bail pending trial is whether or not the accused person will voluntarily and readily present himself to the trial court.'

13. This Court recognizes the right to bail and bond enshrined in the Constitution but the grant of bail and bond is considered alongside circumstances of each case.
13. The ODPP and Defense have outlined their position relying on the same pleadings and submissions filed during the application for bail and bond that culminated with the Court Ruling of 5/12/2024. This Court lacks appellate powers to reconsider same and/or similar circumstances pleadings and submissions and arrive to different conclusion.
14. If there are changed new urgent circumstances then the Court shall consider review of bail and bond on merit.
15. This being review there ought to be change of circumstances or any new developments for the Court to consider. This Court notes that although the Accused is a single mother with a child, the facts depict



that she fled after the demise of the deceased and was arrested 9 months later. The Court granted bail bond based on Pre-bail report that the Applicant should be released on stringent terms.

**Disposition**

13. For now I find in the absence of new or changed circumstances bail and bond review is withheld until change of circumstances and/or commencement and progress of the hearing.

**RULING DELIVERED DATED & SIGNED IN OPEN COURT CRIMINAL DIVISION OF THE HIGH COURT NAIROBI ON 31/7/2025.**

**M.W.MUIGAI**

**JUDGE**

