



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Republic v Khavaya (Criminal Case E006 of 2024)
[2025] KEHC 11969 (KLR) (Crim) (12 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 11969 (KLR)

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

CRIMINAL

CRIMINAL CASE E006 OF 2024

MW MUIGAI, J

AUGUST 12, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

RONALD MUTUA KHAVAYA ACCUSED

RULING

1. Ronald mutua khavaya was charged with the offence of Murder Contrary to Section 203 are read with Section 204 of the [Penal Code](#) . The particulars of the charges were that

On 26th December 2023 at Njiru area in Embakasi sub county within Nairobi County , the accused murdered JMK, a minor .

2. The accused was arraigned on 5/4/2024 when he answered to the charges in Kiswahili stating : *Nakata*.
3. The accused filed Notice of motion dated 19/2/2025 and prays for bail pending trial .The application is brought on the grounds on the face of the application and the supporting affidavit of Ronald Mutua Khavaya.
4. The accused case is that he has been remanded at Industrial area men remand cells. That he is a father of 2 children aged 2 and 5 years and is the sole breadwinner of his family. He resided at Komarock where he worked as a tailoring stitching motor vehicle seat covers .He prays for reasonable bond terms and is willing to comply with conditions given by the court.

Replying Affidavit.

5. The prosecution filed the affidavit of No 92xxx Sabian Odongo from the Directorate of Criminal Investigating office at Kayole sworn on 12/2/2024.



6. The prosecution reiterates that the accused brother and sisters are witnesses in the case .That there is likelihood of intimidation or otherwise interference of witnesses.
7. That the accused is a flight risk as he attempted to flee from Mama Lucy hospital when the deceased was declared dead .That the police had to give chase. That the accused faces serious charges and carry the death penalty with more incentive of absconding.

Prebail Report.

8. The prebail report is on record. The details on the accused family and personal information are that the accused is married to one wife and marriage is blessed with two children. His wife describes him as a loving and caring. The family moved to his rural home after the accused was arrested.
9. He has no history of jumping bail, he stated that he is not a flight risk and has a family to take care of. The accused family supports his application and his grandmother is willing to use her title deed.
10. The victim impact statement is represented by the deceased mother. The deceased was 1 year 9 month and she has no other children although the deceased father has other children. The death was received with shock and disbelief and the mother is yet to coming to terms.
11. The application is opposed on ground that the accused is a flight risk as he tried to flee from the scene and it took efforts of the public to arrest him. The accused is also on hard drugs called *mchele* and has threatened the deceased father who is also his brother. The video recording where he threatened to kill him has not been shared with the police
12. The community views were represented by the Area Chief and Village Elder. The accused is a tenant and has not permanent place of abode .The incident was not reported to the local administration and they do not have information. He is not well known in the area and there is a possibility of wrath from the community.
13. Bail can be considered after key witnesses have testified.

Submissions.

14. Parties made oral submissions, the prosecution pointed out that the accused is related to Sailas Masitsta Khavaya and Linet Seventia Shitimba who is the brother and sister in law. That bail should be denied until the witnesses testify and the prosecution will prioritize these witnesses.
15. The accused contend that he case was brought in 2021 and that he has been in custody, the matter is not unique and the court will give conditions .The prosecution's reasons are not supported for bail to be denied.

Analysis and Determination.

16. Article 49 1 (h) provides for the right of arrested and accused persons to be released on bail. The right may be limited by law. The prosecution must demonstrate compelling grounds that prevent granting of bail . The grounds must not be speculative or based on suspicion.
17. In *Patius Gichobi Njagi & 2 Others v Republic*, [2013] eKLR the court in expounding on the Prosecution's duty to disclose compelling reasons if opposed to bond pending trial stated as follows:

“... where the State opposes bail on account of any of the often-cited and commonly known fears which it routinely expresses including, but not limited to the likelihood of the accused absconding and failing to attend trial; likelihood of interference with witnesses; the



possibility of hostile and even violent reception of the accused by the community upon release, the state must do more. It must step out of the realm of imagination and speculation and provide the court with persuasive argument backed by facts and experiences, and circumstances unique to each individual case that would make the court appreciate the need to deny an applicant bail. As stated in the celebrated case of *Jaffer v Republic*, 1973 EA. 39, the court cannot be called upon to speculate.”

18. I have considered the grounds of the application and responses filed in contest. The age of the matter has been considered and the fact that the accused is entitled to bail until a pronouncement is made on the contrary.
19. The prebail report and the replying affidavit corroborate the prosecution’s grounds that the accused brother and sister in law are key witnesses in the case. Close relation with witnesses poses risk of witness interference.
20. The deceased mother also advised the Probation Officer that the deceased father has received threats. More evidence would be required to prove the claims.
21. However, I also find that the accused has not disputed these serious allegations have not been disputed and further add to the risk posed to witnesses if the application succeeds.
22. Witness interference is an affront to the administration of justice and goes to the root of the case.
23. In *Fatuma & another v Republic* [2023] KEHC 25773 (KLR), the High court held that :

“Proven interference with witnesses is an affront to the administration of justice and therefore a compelling reason contemplated by article 49 (i) (h) of *the Constitution*.” Also see *R v Patius Gichobi* (*supra*)
24. In the case of *Republic v Mayende & 4 Others* Bungoma High Court Criminal Case No. 55 of 2009, , the court stated that :-

“ - In all civilized systems of court, interference with witnesses is a highly potent ground on which the accused may be refused bail. It is a reasonable and justifiable limitation of right to liberty in law in an open and democratic society as a way of safeguarding administration of justice; undoubtedly a cardinal tenet in criminal justice, social justice and the rule of law in general, as envisioned by the people of Kenya in the Preamble to *the Constitution* of Kenya, 2010..... Threats or improper approaches to witnesses, although not visibly manifest, as long as they are aimed at influencing or compromising or terrifying a witness either not to give evidence, or to give schewed evidence, amount to interference with witnesses; an impediment to or perversion of the course of justice...if the interference is aimed at impeding or perverting the course of justice, and if it is so found, it is a justifiable reason to limit the right to liberty of the accused.”
25. Further, in the case of *R v Fredrick Ole Leliman & 4 Others*, Nairobi Criminal Case No. 57 of 2016 (2016) eKLR the court held that stringent bond terms may be deployed to prevent interference. The court can also subject the accused to pretrial detention. Holding that :

“In this instance where such interferences may occur the court has to determine whether the integrity of the criminal process and the evidence may be preserved by attaching stringent



terms to the bond or bail term; or whether they may not be guaranteed in which case the court may find that it is necessary to subject the accused to pre-trial detention.”

26. The accused place of abode has not been disclosed, the accused is also not known by the local administration or the community he hails from making it difficult to trace him or know his whereabouts.
27. The fact that he attempted to flee the hospital does not make him a flight risk but proves action by impulse.
28. The end result is that the application for bail is denied at this stage.
29. The matter will be heard and determined expeditiously to cure pretrial detention

RULING DELIVERED SIGNED & DATED IN OPEN COURT ON 12/8/2025 AT CRIMINAL DIVISION

HIGH COURT NAIROBI

M. W. MUIGAI

JUDGE

