



**Republic v Kazungu & another (Criminal Case E004 of 2023)  
[2024] KEHC 6792 (KLR) (29 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 6792 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
CRIMINAL CASE E004 OF 2023  
GMA DULU, J  
APRIL 29, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**HAMISI TAYARI KAZUNGU ..... 1<sup>ST</sup> ACCUSED**

**SULEIMAN CHIGAMBA ZEMBE ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. I have considered the request of the counsel for the accused persons with regard to bail.
2. Both Mr. Mwanyumba and Mr. Mosioma have urged this court to grant bail. The Prosecuting Counsel Mr. Sirima opposes grant of bail.
3. Bail is a constitutional right, and since promulgation of the 2010 *Constitution* it applies to all offences, however serious. It can be denied only where there exist compelling reasons to deny bail.
4. Defence counsel have submitted that the accused be granted bail and the court issues stringent terms. The pre-bail report however, does not favour release on bail, for reasons among others, the safety of the accused persons and the community.
5. In my view, the safety of the life of an accused person can be a compelling reason for denial of bail. In the present case, I am of the view that it is such a compelling reason, because as a court, I have a duty to protect both the accused person's safety and life, as well as the safety and lives of the community. Even though this court can give stringent conditions for bail, it is not in a position to supervise compliance with those conditions.
6. I thus decline to grant bail to the accused persons herein at this time. In case the current situation on the ground changes, bail can still be considered hereafter. As for now bail/bond is declined.



**DATED, SIGNED AND DELIVERED THIS 29<sup>TH</sup> DAY OF APRIL 2024 IN OPEN COURT AT VOI.**

**GEORGE DULU**

**JUDGE**

In the presence of:-

Alfred – Court Assistant

Mr. Sirima for State

Mr. Mosioma for 1<sup>st</sup> accused

Mr. Mwanyumba for 2<sup>nd</sup> accused

