Republic v Marindi & another (Criminal Case E010 of 2025)
[2026] KEHC 202 (KLR) (20 January 2026) (Ruling)

Neutral citation: [2026] KEHC 202 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

CRIMINAL CASE E010 OF 2025

AC BETT, J

JANUARY 20, 2026

BETWEEN

REPUBLIC ..... PROSECUTOR

AND

LUKA MARINDI ..... 1ST ACCUSED

ISAIAH MARINDI ..... 2ND ACCUSED

RULING

1. On 3rd March 2025, the Court declined the two Accused person's application for bond on the basis of a claim by the Prosecution that there was fear that the Accused persons would interfere with the witnesses and that the Prosecution had taken steps to engage the Witness Protection Agency with a view to having the witnesses placed under witness protection.

2. Since then, the matter has proceeded with three witnesses testifying and the two eye witnesses portrayed the Accused persons as extremely violent. PW3, the widow to the deceased also testified that the 2nd Accused had threatened her when her husband was still alive.

3. The Accused persons have moved this Court by way of Notice of Motion dated 2nd January 2026 praying that the Court reviews its Ruling dated 3rd March 2025 and admit them to bail or bond on such reasonable bond terms as it deems fit.

4. The Accused persons rely on the pre-bail report which indicates that the family of the victim abandoned the farmland in dispute after the incident. They argue that they do not know any of the witnesses and are not in a position to interfere with them.

5. The Prosecution aligned itself with the pre-bail report.

6. The Court's decision to deny the Accused persons bond was founded on the apprehension that two key prosecution witnesses were considered vulnerable and likely to be threatened by the Accused person wherefore the Prosecution initiated a witness protection process with the Witness Protection Agency.

7. I have perused the record and find that apart from a letter dated 13th February 2025 addressed to the Witness Protection Agency, the Prosecution did not take any concrete steps to crystallize the protection. Moreover, one of the vulnerable witnesses has already given evidence and with the deceased's family's abandonment of the land, the fear of witness interference or safety concerns diminishes. Nevertheless, it is not clear whether the victim's family still resides within the environs of the Accused person's home.

8. By dint of Article 49(1)(h) of the *Constitution*, bond is a constitutional right and even if it was earlier denied, the same can be allowed if the Accused persons prove that the circumstances prevailing at the time of denial have changed.

9. The Accused persons have been in custody since 30th January 2025. The pre-bail report indicates that the community is not hostile towards them. With the victim's family having relocated, the circumstances are such that the Accused persons may not pose such great danger to them anymore.

10. For the foregoing reasons, the Court reviews its earlier orders disallowing bond and admits the two Accused persons to bond subject to the following terms and conditions:-

    (a) Each Accused person is granted bond of Ksh. 300,000/= with one surety of similar amount.

    (b) The Accused persons are hereby restrained from approaching any member of the victim's family either directly or by way of proxy until the determination of this case.

    (c) The Accused persons shall report to the DCI, Kakamega North on the 1st day of each month, and if such day does not fall on a weekday, on the first weekday subsequent thereto, until the determination of this suit.

    (d) In default of any of the conditions in Clause (b) and (c), the bond shall be revoked and the Accused persons committed to remand custody until determination of this case.

DATED, SIGNED, AND DELIVERED AT KAKAMEGA, THIS 20TH DAY OF JANUARY 2026.

A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the State/Prosecution

Ms. Wanyonyi for the Accused

Court Assistant: Polycap