



**Republic v Opetoka (Criminal Case E003 of 2024)
[2024] KEHC 9477 (KLR) (31 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9477 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL CASE E003 OF 2024
WM MUSYOKA, J
JULY 31, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

JERONIM EKEMERI OPETOKA ACCUSED

RULING

1. When the accused took plea on 22nd July 2024, the prosecution indicated that it was opposed to his being admitted to bail/bond, and that it had filed an affidavit setting out the grounds. The prosecution also called for a pre-bail report. Ms. Waswani, the Advocate on record for the accused, submitted that the accused was entitled to be admitted to bond as a constitutional right, except where compelling reasons existed.
2. I made an order for a pre-bail report to be filed, and one was subsequently filed, dated 30th July 2024.
3. In the affidavit, sworn on 29th July 2024, by the investigating officer, it is averred that the accused person had alleged threats to his life by unknown persons, and he could be lynched by villagers, should he be released on bond. It is also averred that he could be a flight risk, given that he resided near the Kenya/ Uganda border, and that he was not in gainful employment.
4. In the pre-bail report, it is noted that the accused person is 66 years old, and is married, with children. He had not been charged before with any offence, and did not abuse prohibited drugs, save that he uses alcohol excessively. The family of the victim was said to be bitter, and was not inclined to support his admission to bond, although it did not cite any possible threats to its wellbeing, should bond be granted. His own family and the community, through its leadership, have expressed no concerns or reservations about his admission to bond.
5. I have considered the submissions made by both sides, the affidavit by the investigating officer and the pre-bail report. I do not find anything tangible to move me to find and hold that compelling reasons



exist for me to deny the accused bond. He has not, through his Advocate, expressed any fear for his life should he be admitted to bond. There is nothing tangible, from the affidavit of the investigating officer, pointing to the fact that he could be a flight risk.

6. Consequently, I hereby do admit the accused person to bond, of Kshs. 350,000.00, with 1 surety of like amount.

RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA THIS 31ST DAY OF JULY 2024

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Ms. Joyce Odhiambo, Probation Officer.

Advocates

Mr. Onanda, instructed by the Director of Public Prosecutions, for the Republic.

Ms. Waswani, Advocate for the accused person.

Mr. Ogola, Advocate watching brief for the family of the victim.

