



**Republic v Onkeo (Criminal Case E025 of 2024)
[2024] KEHC 13365 (KLR) (30 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13365 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E025 OF 2024
JK SERGON, J
OCTOBER 30, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

CYRUS OGWANKWA ONKEO ACCUSED

RULING

1. Cyrus Ogwankwa Onkeo the Accused herein was charged with the information of Murder Contrary to Section 203 as read with 204 of the Penal Code. The Particulars of the information dated 30th September, 2024, are that on the night of 21st and 22nd day of September, 2024 at Eland Estate in Kericho Township, Kericho East Sub County within Kericho County the accused murdered Frida Nyaboke Anari.
2. The accused person pleaded not guilty to the offence. The Accused has now applied to this court to be released on bond pending trial.
3. Mr. Nyadimo, Learned Advocate for Accused urged this Court to admit the accused person to reasonable bond terms.
4. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions did not oppose the Accused Person’s application for bond.
5. The County Probation Officer was directed to file a pre-bail report within fourteen (14) days from the date of the directive.
6. The county probation officer filed a pre bail report, in the said report. It is noted that the accused urged this Court to grant him bail/bond he was willing to abide by the bond terms and not jeopardize justice and/or interfere with the witnesses.



7. The family of the victim expressed bitterness and anger towards the accused, they were strongly opposed to weighing in as to whether the accused ought to be released on bail.
8. The family members of the accused were willing to deposit the requisite security for release of the accused and to ensure that he attends court proceedings without fail. The probation officer in noting the accused's travel history recommended that should this court deem it fit and just to grant bail, the accused should be ordered to deposit his Kenyan passport in court.
9. The social inquiry revealed that the accused is not well known to local administration and community, they therefore had nothing much to report.
10. The probation officer noted that whereas there was no compelling reason for the court to withhold the accused's release on bond, the probation officer urged this court to exercise its discretion in the matter.
11. The right to bail is both constitutional and statutory, the accused person has a constitutional right to be released on reasonable bail terms unless there is a compelling reason not to grant the accused person bail.
12. The right to bail is entrenched in article 49 (1) (h) of *the Constitution* which states as follows:- "An arrested person has the right - to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released."
13. As a constitutional right, its enjoyment can only be limited if exceptional circumstances are established. In interpreting the right to bail, section 123A of the Criminal Procedure Code CAP 75 Laws of Kenya sets the parameters for the grant of the right to bail.
14. In Republic v John Kahindi Karisa & 2 others [2010] eKLR the court observed as follows; "A murder suspect has a constitutional right to be released on bail. This is an inalienable right and can only be restricted by the court if there are compelling reasons for him not to be released." *The Constitution* does not define the term "compelling reasons". However, there are several High Court cases that have deconstructed the phrase "compelling reasons" in Republic v Joktan Mayende & 4 Others Bungoma High Court Criminal Case No. 55 of 2009, the court defined the term "compelling reasons" as follows: "The phrase compelling reasons would denote reasons that are forceful and convincing as to make the court feel very strongly that the accused should not be released on bond. Bail should not therefore be denied on flimsy grounds but on real and cogent grounds that meet the high standard set by *the constitution*."
15. In the instant matter, I have taken cognizance of the fact that the prosecution is not opposed to the application for bail/bond and that the pre bail report is favourable. Consequently, I find that there are no compelling reasons not to admit the accused to bail. The accused person should be released upon signing a bond of Kshs.200,000/= and one surety of similar amount. The accused person to deposit his Kenyan passport in court.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 30TH DAY OF OCTOBER, 2024.

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Musyoki for the State



Accused – Present in Person

Nyadimo for the applicant

