



**Republic v Ongoro & 2 others (Criminal Case E020 of 2023)
[2023] KEHC 25883 (KLR) (27 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 25883 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL CASE E020 OF 2023
WM MUSYOKA, J
NOVEMBER 27, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

KEVIN ONGORO 1ST ACCUSED

JOSEPH ONGORO WANJALA 2ND ACCUSED

SEMI ONDUODO 3RD ACCUSED

RULING

1. On 27th October 2023, I delivered a ruling in this matter, where I denied the accused bail/bond, but with a rider that their application could be renewed after the key witnesses had testified.
2. The hearing commenced on 7th November 2023. 6 witnesses testified, being Immaculate Akinyi Wandera, Christine Matilda Anyango, Margaret Ajiambo Obiji, Silvia Nabwire Oseno, Obiji Ouma Onyango and Camillus Oseno Musumba. At the close of the hearing that day, Mr. Ouma, for the accused, renewed the application for bond, on grounds that all the civilian witnesses had testified, arguing that the issue of witness interference was unlikely to arise. Ms. Chepkonga, for the Republic, asked me to call for pre-bail reports, which I did.
3. The pre-bail reports were filed herein on 14th November 2023, in respect of the 3 accused persons. They are largely replicas of each other, on attitude towards the offence, previous criminal records and conclusions. It is indicated that the homesteads of the family of the deceased and that of the accused are 100 metres apart, there was clan rivalry between the clan of the deceased and that of the accused, and the body of the deceased was yet to be buried. It was recommended that the accused could be released on bond, although the ground was not safe for them, but they could get safety from the wider community.



4. The Advocates involved in the matter addressed me on 15th November 2023. Ms. Chepkonga submitted that the safety of the accused was not guaranteed, and that the views of the family of the victim were not sought. She further submitted that the accused were still a flight risk, given that they have relatives in Uganda. Mr. Ouma urged me to exercise discretion.
5. The 2 families live so close to each other, that there is potential for conflict, and a risk that emotions could boil over during the burial of the deceased, exposing the accused herein to risk. Although the reports are favourable, largely, in my view, I find that admitting the accused to bond, before the remains of the deceased have been interred would be to expose them to greater risk. Their homes are so close, and that could invite a proposal to order that the accused should keep off their home, should I consider admitting them to bond. The problem with that is that they would become persons with no fixed abode, increasing their chances of absconding.
6. I am not persuaded that I should admit the accused to bond yet, at least not before the burial has happened. Consequently, I hereby decline to admit them to bond. The same may be considered after the burial. It is so ordered.

RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA THIS 27TH DAY OF NOVEMBER 2023.

W MUSYOKA

JUDGE

