



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL CASE NO. E037 OF 2021**

**(ORIGINATING FROM KISUMU HCCRC NO. E023/2021)**

**STATE.....PROSECUTION**

**VERSUS**

**MPOK.....ACCUSED**

**RULING**

1. The subject minor herein MPO is charged with the offence of Murder contrary to *Section 203 as read with Section 204 of the Penal Code*. The minor subject is aged 15 years and is now being held at Kisumu Children's Remand Home awaiting trial. A hearing date was fixed for 23/2/2022. He was arrested in July 2021 and took plea of Not guilty on 23/9/2021. He was granted bail of Kshs. 100,000 plus two sureties of similar amount. This was following a detailed prebail assessment report filed in court on 4/10/2021 and considered by the learned trial Judge on 6<sup>th</sup> October, 2021.
2. The subject minor tells this court that he had sat for his KCPE in March 2021 and was due to join Form One when this incident occurred leading to his arrest and arraignment. He has therefore lost two terms in Form One and it is unlikely that he will join Form One mid-year.
3. I have considered the application for review of bond terms for the subject minor. Counsel for the subject has abandoned the quest on the alleged violation of constitutional rights of the minor by his continued incarceration. She rightly did so as the right to admission to bail pending trial is not absolute and even then, the minor was granted bail pending trial. The fact that his parents cannot raise bail as granted is not in itself a violation of the rights of the minor who found himself in conflict with the law and he must be treated equally before the law.
4. The court did consider all the circumstances of the minor as per the Prebail assessment report before granting him very lenient bond terms of Shs. 100,000/= plus two sureties of similar amount. The minor is facing a very serious offence where a life is alleged to have been lost and therefore the court cannot release the minor on free bond simply because he cannot raise bond. His parents perform casual jobs and live in rental premises. They are said to be of meagre means but they can approach other relatives or friends willing to stand surety for the minor to ensure he attends court as and when required.
5. The minor having missed to join F1 at this stage will no doubt be idling and is unlikely to attend court for the hearing of his case unless there is an assurance by way of a commitment by an adult responsible surety to ensure he attends court.
6. I am aware that the court trying the subject minor is conscious of the fact that cases involving minors are fast-tracked and there is an already fixed hearing date.
7. In my humble view there are no special circumstances disclosed in this case to warrant review of the very lenient bond terms given to the subject minor. I decline to grant the prayers sought.
8. I so order.
9. These proceedings to be transmitted back to Kisumu High Court forthwith.
10. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 22ND DAY OF DECEMBER, 2021**

**R.E. ABURILI**

**JUDGE**