

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.64 OF 2012

REPUBLIC PROSECUTOR

VERSUS

EZEKIEL OTACHI AKEYA ACCUSED

RULING

1. Bond is now a Constitutional Right of every accused person which can only be denied if there are compelling reasons. These compelling reasons must be provided for by the State. Miss Boyon for the State has submitted that the investigating officer has not been to the chambers to swear an affidavit.
2. There is no legal requirement that an affidavit be sworn by the investigating officer to confirm any compelling reasons.
3. To enable the court decide on bond terms, probation officer's pre-bail report has been filed in which it has been recommended that the accused person be released on bond pending trial. I have however noted that the accused person is accused of murder of his father and that close family members are willing to stand surety for the accused person.
4. To my mind most of the prosecution witnesses will be those from family members and therefore to release the accused person on bond at this stage is likely to compromise the prosecution of his case which to my mind is a compelling reason enough to deny him bond at this stage.
5. I will therefore decline to release the accused person on bond at this point, the same to review his bond application after a period of 30 days from the date herein upon the prosecution reviewing the evidence available to decide whether this is a matter where plea agreement can be entered.
6. The matter to be mentioned on 19/5/2015 for further order. His advocate to be served to attend.

Dated and signed at Kisii this 17th day of March 2015

J. WAKIAGA

JUDGE

17/3/2015

In the presence of:-

Miss Boyon for the State

N/A by Mr. Ochoki

Accused present