



**Republic v Ouru Alias Nakuru (Criminal Case E040 of 2024)  
[2025] KEHC 10941 (KLR) (12 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 10941 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL CASE E040 OF 2024  
JM OMIDO, J  
MARCH 12, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**VICTOR OTIENO OURU ALIAS NAKURU ..... ACCUSED**

**RULING**

1. Before me is the State’s application under Article 49(1)(h) of the [Constitution](#) whereby the order sought is that the Accused person be denied bond at this stage.
2. Under the said Article, the right to bond is not absolute and one can be denied bond if compelling reasons for such denial are presented.
3. The onus to present such compelling reasons lies on the prosecution and the standard of proving that there exist such reasons is on a balance of probabilities.
4. I have considered the Bail Information Report filed herein, the affidavit of the Investigating Officer Police Constable Joel Chacha, sworn on 23<sup>rd</sup> February, 2025 opposing the release of the Accused person on bond, the submissions by both parties and the record in its entirety.
5. The first ground upon which the application for denial of bond is premised, as presented by Ms. Muema, learned Prosecution Counsel is that the Accused person is a flight risk and may not turn up for trial if released as he has no known fixed place of abode. The second ground is that there is concern on his safety as the community is hostile and his life may be at risk if he is released. The third ground presented by the State is that the Accused person may interfere with witnesses, some of whom were his workmates if granted bond.
6. Ms. Muema relied on the Bail Information Report, the affidavit of the Investigating Officer and the authority of [Komba v Republic](#) (Criminal Case E024 of 2023) [2024] KEHC 6971 (KLR) (29 May



2024) (Ruling) in which this Court (A.K. Ndung'u J) laid out some of the grounds which would amount to compelling reasons upon which an Accused person may be denied bond.

7. The response by Mr. Lore learned Counsel for the Accused person was that the contents of the Bail Information Report and the Investigating Officer's affidavit are contradictory and that the authority cited is not relevant to the present case as the same relied heavily on the aspect of substance abuse.
8. Noteworthy however is the fact that the Accused person did not file any affidavit to discount the allegations that he has no known fixed place of abode, he is a flight risk, he is likely to interfere with witnesses and that his life may be in danger if released.
9. There being no response to the above, I am inclined to find that all the above have on a balance of probabilities been proved as compelling reasons to deny the Accused person bond at this stage.
10. The foregoing notwithstanding, I opine that the issue of denial of bond is not one that is to be determined with finality on a one-off basis. The same can be reviewed whenever circumstances change.
11. The upshot then is that the Accused person is hereby denied bond at this stage and he shall remain in custody. However, he shall be at liberty to renew his application for bond should the circumstances on the ground change or allow.

**DELIVERED, DATED AND SIGNED IN OPEN COURT THIS 12<sup>TH</sup> DAY OF MARCH, 2025.**

**JOE M. OMIDO**

**JUDGE**

Accused: Present.

Prosecution Counsel: Ms. Muema.

Defence Counsel: Mr. Lore.

Court Assistants: Mr. Ngoge & Mr. Juma.

