



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Republic v Arumba alias Edu (Criminal Case E009 of 2025)
[2025] KEHC 2701 (KLR) (11 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2701 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E009 OF 2025
AC BETT, J
MARCH 11, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

EDWARD LUCHELI ARUMBA ALIAS EDU ACCUSED

RULING

1. This is a ruling on an application for bond by the Accused who is charged with the offence of murder.
2. The In opposing bond, Ms. Chala for the prosecution associates herself with the pre-bail report.
3. The pre-bail report states that the Accused is well known for his alcoholic consumption. At 40 years of age, the Accused is single having separated from his wife three (3) years ago. The victim's family is strongly opposed to bond. The community is said remain hostile to the Accused.
4. It is stated that he Accused currently faces severe social exclusion due to the nature of the crime and the customs of the local community that dictate that the Accused is forbidden from accessing commonly shared amenities such as the village water source, the market place, and other social places. The Accused is also expected to avoid contact with other community members and in particular, the victim's family.
5. The Accused, through his Advocate Ms. Oungo urge the court to grant him bail as it is his constitutional right.
6. Article 49 (1) (h) of the *Constitution* provides as follows:-

“(1) An arrested person has the right—



- (h) to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.”

7. To give effect to Article 49(1)(h), the legislature enacted Section 123A of the Criminal Procedure Code which provides as follows:-

“(1) Subject to Article 49(1)(h) of the Constitution and notwithstanding section 123, in making a decision on bail and bond, the Court shall have regard to all the relevant circumstances and in particular—

- (a) the nature or seriousness of the offence;
- (b) the character, antecedents, associations and community ties of the accused person;
- (c) the defendant's record in respect of the fulfillment of obligations under previous grants of bail; and;
- (d) the strength of the evidence of his having committed the offence;

(2) A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person—

- (a) has previously been granted bail and has failed to surrender to custody and that if released on bail (whether or not subject to conditions) it is likely that he would fail to surrender to custody;
- (b) should be kept in custody for his own protection.”

8. An Accused person can only be denied bail if there are compelling reasons to do so. What constitutes compelling reasons is not defined by the Constitution but depend on the peculiar circumstances of each case.

9. Having analysed the pre-trial report, I am satisfied that there is no threat to the Accused's life from the community. The threat to the Accused would have been the only compelling reason for denial of bond.

10. The Accused is therefore admitted to bond pending trial.

11. The Accused is granted bond of Kshs. 500,000/= plus one surety of like sum.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 11TH DAY OF MARCH 2025.

A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the Prosecution

Ms. Orengo for the Accused

Court Assistant: Polycap

