



**Republic v Ouma (Criminal Case E002 of 2025)  
[2025] KEHC 2454 (KLR) (10 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2454 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL CASE E002 OF 2025**

**AC BETT, J  
MARCH 10, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**RODGERS ONGU OUMA ..... ACCUSED**

**RULING**

1. The Accused is charged with murdering his sister-in-law. The prosecution intends to call the deceased’s husband and young daughter as witnesses.
2. In opposing bond, the prosecution reiterates that the pre-bail report is not favourable as the security of the Accused may be at risk and the Accused is likely to interfere with witnesses.
3. The Accused through Mr. Otinga argues that the pre-bail report does not give a true picture of the ground because the Probation Officer interviewed the Chief of Emukangu Location where the deceased hails from and not the one of Musanda village where the Accused hails from. He argues that bond is a constitutional right and there are no compelling reasons to deny the Accused person bond.
4. I have considered the rival submissions by the parties. I have also perused the pre-bail report. There is a strong sentiment from the community and the victim’s family that the Accused is likely to threaten the witnesses should he be released on bond. The fear is founded from the Accused’s previous conduct where he used to issue threats directed at his second wife’s family if he had issues with her.
5. From the report, it is not clear where the Accused’s second wife currently is and since her absence is what led to the murder, the key witnesses fear that since the Accused knows their location, he may retaliate.
6. The pre-bail report also indicates that the Accused’s security is at risk if he is released on bond.



7. The right to bail is embedded in Article 49 (1) (h) of the Constitution and bail can only be denied if there are compelling reasons.
8. The Judiciary Bail and Bond Policy Guidelines March 2015 sets out the judicial policy on bail and bond as follows:-

“ 4.26 The following procedures should apply to the bail hearing:

- (a) The prosecution shall satisfy the court, on a balance of probabilities, of the existence of compelling reasons that justify the denial of bail. The prosecution must, therefore, state the reasons that in its view should persuade the court to deny the accused person bail, including the following:
  - a. That the accused person is likely to fail to attend court proceedings; or
  - b. That the accused person is likely to commit, or abet the commission of, a serious offence; or
  - c. That the exception to the right to bail stipulated under Section 123A of the Criminal Procedure Code is applicable in the circumstances; or
  - d. That the accused person is likely to endanger the safety of victims, individuals or the public; or
  - e. That the accused person is likely to interfere with witnesses or evidence; or
  - f. That the accused person is likely to endanger national security; or
  - g. That it is in the public interest to detain the accused person in custody.”

9. Having evaluated the application, I find that there are sufficient grounds to defer the Accused’s bond. The Accused shall be released once the two key witnesses have testified.

10. The matter shall therefore be set down for hearing on a priority basis.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 10<sup>TH</sup> DAY OF MARCH 2025.**

**A. C. BETT**

**JUDGE**

In the presence of:

Ms. Chala for the Prosecution

Mr. Otinga for the Accused

Court Assistant: Polycap

