



**Republic v Okoth alias Sisco alias Govins & 2 others (Criminal Case E003 of 2025) [2025] KEHC 4400 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4400 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E003 OF 2025**

**DK KEMEL, J**

**APRIL 8, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**VICTOR OUMA OKOTH ALIAS SISCO ALIAS GOVINS ..... 1<sup>ST</sup> ACCUSED**

**DUNCAN OCHIENG OBONG'O ALIAS OTUCHI ..... 2<sup>ND</sup> ACCUSED**

**SAMUEL ONYANGO ONGWESO ALIAS ONYANGO JA BODA ... 3<sup>RD</sup> ACCUSED**

**RULING**

1. Learned counsel for the 3<sup>rd</sup> accused herein Samuel Onyango Ongweso alias Ja Boda has sought for the release of the accused on bail pending trial on the ground that the offence is bailable under the [Constitution](#) and that the pre-bail report is favourable. Learned counsel added that the 3<sup>rd</sup> accused should be allowed to enjoy the presumption of innocence until proved guilty and that this court should reject the contents of the affidavit by the investigating officer and grant bail to the said 3<sup>rd</sup> accused.
2. Learned counsels for the prosecution and family of the deceased have urged this court not to grant bond until all the witnesses have testified. They further urged the court to consider the averments in the affidavit of the investigating officer which reveals that the family of the deceased is apprehensive of their security and are still traumatized by the death of their kin. It was also urged that all accused should be treated equally on matters regarding bail.
3. I have considered the submissions of learned counsels regarding the issue of whether the 3<sup>rd</sup> accused herein should be granted bail pending trial. There is an affidavit by the investigating officer filed on 24/3/2025 as well as a pre-bail report dated 21/3/2025.
4. The pre-bail report dated 21/3/2025 indicates inter alia; that the widow of the deceased is apprehensive for the safety of her family as the accused is likely to intimidate the witnesses; that the local



administration is of the view that his close association with criminal elements in the locality remains a great issue by many; that his abusive use of alcohol is a risk to his chances to compliance with bond terms; that the court can consider granting bond with surety.

5. The investigating officer Joseph Owenga has filed an affidavit on 24/3/2025 wherein he has averred inter alia; that the 3<sup>rd</sup> accused is a flight risk going by the fact that he went into hiding until his arrest; that he is likely to interfere with witnesses some of whom are his relatives; that the release will disturb public peace and order and thus will affect the security of the area; that the release is likely to interfere with the integrity of the judicial process.
6. Under Article 49(1) (h) of the Constitution, an accused person has a right to be released on bond pending a charge or trial unless there are compelling reasons by the prosecution not to be released. Once an accused person denies the charge, he is ipso facto deemed innocent until proved guilty and shall continue to enjoy the presumption of innocence until the contrary is proved. At this stage therefore, the 3<sup>rd</sup> accused is entitled to be released on bond pending trial unless there are compelling reasons to be furnished by the prosecution. Already, the pre-bail report and the affidavit by one of the investigating officers have been filed for consideration. Again, the pre-bail reports in respect of 1<sup>st</sup> and 2<sup>nd</sup> accused persons have proposed that bond terms be deferred until the witnesses have testified on the ground that witnesses who are from their neighbourhoods are likely to be interfered with and or intimidated.
7. It is noted that the 3<sup>rd</sup> accused herein also hails from the same area just like the 1<sup>st</sup> and 2<sup>nd</sup> accused and that the witnesses talked of also come from the same locality. I find that the circumstances obtaining merit a denial of bond to the 3<sup>rd</sup> accused herein until the witnesses who hail from his locality have testified. Indeed, the pre-bail reports were made by the same probation officer and that the contents are similar regarding the circumstances obtaining on the ground regarding the three accused persons.
8. Looking at the circumstances holistically, I am satisfied that sufficient reasons have been furnished by the prosecution which are compelling enough to justify denial of bond to the 3<sup>rd</sup> accused herein at this stage of the proceedings. The request for bond by the said 3<sup>rd</sup> accused is hereby declined and that the issue of bond be revisited once the key prosecution witnesses have testified.

**DATED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF APRIL, 2025.**

**D. KEMEI**

**JUDGE**

In the presence of

N/A Samuel Onyango Ongweso Alias

Onyango Ja Boda.....3<sup>rd</sup> Accused

M/s Omollo.....for 3<sup>rd</sup> Accused

Kofa for Soita/Muema.....for Prosecution

Onyango.....Watching brief for family of the deceased

Okumu.....Court Assistant

