



**Republic v Ochekei (Criminal Case E019 of 2024)
[2025] KEHC 4146 (KLR) (2 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4146 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE E019 OF 2024**

DR KAVEDZA, J

APRIL 2, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER OCHEKEDI ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 of the *Penal Code*, Cap 63 Laws of Kenya. The particulars of the offence are that on 9th December 2024 at Kawangware Stage 2 area, Dagoretti sub County within Nairobi County murdered Jackline Mudoro. He pleaded not guilty. He has now approached this court seeking to be released on reasonable bail/ bond terms pending his trial.
2. PC Abdalla Mawazo filed an affidavit on 17th February 2025 opposing bail. He stated that the accused is from Teso South, a region on the Kenya-Uganda border, and is a flight risk. If the accused absconds, tracing him would be difficult. Additionally, he is not gainfully employed, reducing the likelihood of his court attendance and making it harder to locate him if he flees. PC Mawazo urged the court to deny bail at this stage.
3. In response, the accused asserted that he is not a flight risk and has a fixed abode. Further, that the prosecution has not presented compelling evidence to warrant his continued detention. That he has willing sureties who will ensure he attends court. He urged the court to issue reasonable bail terms.
4. I have considered the application, the opposition, the response and the applicable law.
5. Article 49(1) (h) of *the Constitution* guarantees the right of an arrested person to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released. The onus of proof in bail applications in respect of compelling reasons is



borne by the state under section 123A of the Criminal Procedure Code (Cap 75) Laws of Kenya. The right for an accused person to be released on bail is not absolute.

6. In determining whether the interest of justice dictates the exercise of discretion under Article 49 (h) of the Constitution, the courts are to be guided by the provisions of section 123A of the Criminal Procedure Code (Cap 75) Laws of Kenya which provides:

“In such a determination the courts are to factor the following exceptions to limit the right to bail;

- (a) Nature or seriousness of the offence;
- (b) The character, antecedents, associations, and community of the accused person;
- (c) The defendants record in respect of the fulfilment of obligations under previous grant of bail;
- (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 if released on bail, it is likely that he would fail to surrender to custody;
 - (b) Should be kept in custody for his own good.

7. The pre-bail report on record, indicated that the accused was married to the primary victim, Jackline Mudoro, and they have a seven-year-old child under the victim’s family’s custody in Uganda since 2020. They separated in early 2024. At the time of his arrest, he had no permanent residence, staying at either the victim’s house or a friend’s. He engaged in casual labour and has no prior convictions. His family, who own land in Teso South, vouched for him, with his brother offering surety. However, authorities in Nairobi were unfamiliar with him. He has strong ties to Uganda, raising concerns of flight risk.

8. I also take judicial notice of the fact that our borders are porous, and in particular, one does not need a passport to travel within the East African Community and therefore, exiting the court’s jurisdiction is possible. This circumstance, in my view, can be a motivation for the accused to jump bail and find himself out of the country. For the foregoing reason, I find that there exists a compelling reason to warrant denial of bail/bond to the accused.

9. Accordingly, the accused application for bail is dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 2ND DAY OF APRIL 2025

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D. KAVEDZA

JUDGE

