



REPUBLIC OF KENYA



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

**Ochieng alias Calo v Republic (Criminal Case E006 of 2025)
[2025] KEHC 10232 (KLR) (16 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10232 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE E006 OF 2025
DR KAVEDZA, J
JULY 16, 2025**

BETWEEN

EBEL OCHIENG ALIAS CALO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant is facing a charge of murder contrary to section 203 read with 204 of the [Penal Code](#) and is currently in custody. He has filed the present notice of motion dated 9th July 2025 seeking to be taken to hospital as a matter of urgency.
2. The grounds in support of the application are that the applicant is suffering from serious respiratory disease and intense allergic reaction. Since his incarceration, the condition has deteriorated and is life threatening. The prison authorities have been unable to manage the condition within the prison facilities. In the premises, he urged the court to grant the orders sought as a matter of urgency.
3. The law is settled that an accused person, notwithstanding the nature of the offence with which he is charged, retains all fundamental rights save for those necessarily curtailed by virtue of lawful detention. The right to health is one such non derogable right. Prison authorities bear the duty to ensure that inmates receive appropriate medical attention commensurate with their condition. Where such facilities are lacking within the prison system, the Court is enjoined to make orders to safeguard the life and wellbeing of the accused.
4. In view of the unchallenged medical evidence, this being an ex parte application, and the submission that the condition is beyond the capacity of the prison infirmary, the Court finds merit in the application. To do otherwise would not only amount to an abdication of its duty to uphold the applicant's constitutional right to health which failure may occasion irreparable harm.



5. Accordingly, I find that the application dated 9th July 2025 is merited and is hereby allowed. I hereby make the following orders:

- I. The matter is certified urgent
- II. The Officer-in-Charge Industrial area remand prison shall ensure that the Applicant is escorted under security to Mbagathi County Referral Hospital within 24 hours for appropriate medical examination and treatment as shall be necessary.
- III. An elaborate report shall be prepared by attending Doctor and shall be filed within two (2) days from the date hereof.
- IV. The applicant shall be produced virtually on **18th July 2025**.

It is so ordered.

RULING DATED AND DELIVERED VIRTUALLY THIS 16TH DAY OF JULY 2025

D. KAVEDZA

JUDGE

