



**Republic v Emodo (Criminal Case E004 of 2023)  
[2024] KEHC 5159 (KLR) (17 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5159 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL CASE E004 OF 2023  
WM MUSYOKA, J  
MAY 17, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**JOEL EMODO ..... ACCUSED**

**RULING**

1. The accused herein was arraigned in court on 15<sup>th</sup> March 2023. It transpired that he had psychiatric challenges, and plea-taking was deferred, and he was committed to Mathare Mental and Teaching Hospital, on 20<sup>th</sup> March 2023. He was subsequently placed before me on 11<sup>th</sup> March 2024, after his condition got better, and plea was taken. He pleaded not guilty. Before I could consider admitting him to bond, the prosecution requested for a pre-bail report.
2. The probation office placed a pre-bail report in the file herein on 28<sup>th</sup> March 2024. It was favourable to the accused person, although it was indicated that the community at his home was still hostile, and his safety was not assured, and it was suggested that he finds alternative accommodation elsewhere.
3. His Advocate, Mr. Were, indicated that a brother of the accused had identified a place where he could reside, and that that same brother was the one to stand surety for him. He suggested that the admission to bond could be conditional to him staying away from the area around the home of the deceased. The prosecution, through Ms. Chepkonga, felt that, given that his safety was not assured, it probably would be prudent to have him remain in custody.
4. The right to bail/bond, pending trial, is a constitutional right. It can only be denied for compelling reasons. The only reason advanced, in this case, is that the security of the accused is not assured. But I am told arrangements have been made for him to stay away from the home area, where the crime was allegedly committed, and where he is likely to come into contact with the family of the victim.



5. My inclination is to grant bond, on condition that the accused finds residence or accommodation, during the duration of the trial, way away from the home area, where he could come into contact with the family of the victim of the alleged murder. Consequently, I admit the accused herein, to a bond of Kshs. 350,000.00, with 1 surety of like amount. The accused shall have to find residence away from his home, and preferably outside of Busia County, for his own sake. Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA THIS 17<sup>TH</sup> DAY OF MAY 2024**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. Fredrick Barasa Ongulu, Probation Officer

**Advocates**

Mrs. Chepkonga, instructed by the Director of Public Prosecutions, for the respondent.

Mr. Were, Advocate for the accused person.

