



**Republic v Obaga & another (Criminal Case E002 of 2024)
[2024] KEHC 6826 (KLR) (2 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6826 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL CASE E002 OF 2024
GMA DULU, J
MAY 2, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

SNAIDA ACHIEMO OBAGA 1ST ACCUSED

CAROLINE BETTY MWAKINGELE 2ND ACCUSED

RULING

1. An information for murder has been filed in this court against both accused persons Snaida Achiemo Obaga and Caroline Betty Mwakingele who allegedly murdered Mercy Zighe Koronge on 31st January 2024.
2. The accused persons have not taken plea yet as they have not yet been certified mentally fit to plead.
3. In the meantime, counsel for the accused persons A. C. Knight & Associates Advocates filed a Notice of Motion dated 16th April 2024 seeking the following orders:-
 1. (Spent).
 2. That the two accused/applicants be released immediately and unconditionally.
 3. That the criminal case against the two accused/applicants be withdrawn forthwith.
4. The above is the application subject of the present ruling.
5. The application has grounds on the fact of the Notice of Motion and was filed with a supporting affidavit sworn by each of the accused/applicants.
6. The application was canvassed through oral submissions, which I have considered.



7. It is apparent that the complaint of the accused/applicants is that they were taken to the Wundanyi court initially and not the High Court, and secondly that they have not been formally charged or taken plea to date, a period of more than three (3) months now.
8. In my view, the application is misplaced and cannot be successful. The first reason is that the law and the Constitution under Article 49, only requires that an arrested person be taken to a court within 24 hours of arrest, not necessarily the High Court and may be charged or informed the reason of their arrest. Thus the fact that the accused/applicants were initially taken to the Wundanyi Magistrate's court was not a violation of the Constitution or the law, nor did it render the court process null and void.
9. Secondly, a person who has been arrested has a right under Article 49(h) to be released on bond/bail even at the police station, not necessarily in court. Thus, bail can be requested at any point either at the police station or any court where an arrested person appears, and such request will be dealt with appropriately at that point, and if he is dissatisfied with the decision reached thereat, he can challenge the decision made on bail/bond before a higher tribunal.
10. As such, the complaints disclosed to me presently, do not constitute an irregular or unconstitutional criminal process. I thus decline to issue any of the orders sought in the application.
11. I dismiss the application, but emphasize that this court has jurisdiction to consider any bail/bond application now or hereafter during the pendency of these criminal proceedings.

DATED, SIGNED AND DELIVERED THIS 2ND DAY OF MAY 2024 IN OPEN COURT AT VOI.

GEORGE DULU

JUDGE

In the presence of:-

Alfred – Court Assistant

Mr. Sirima for the State

Ms. Akoko for the accused

Both accused persons

