



REPUBLIC OF KENYA



**Republic v Oyombe & 2 others (Criminal Case 4 of 2017)
[2023] KEHC 725 (KLR) (8 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 725 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 4 OF 2017
RB NGETICH, J
FEBRUARY 8, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

EVANS OCHIENG OYOMBE 1ST ACCUSED

BENSON MUHINDI MATSANZA 2ND ACCUSED

JACKSON WAINAINA KAMAU 3RD ACCUSED

RULING

1. The 1st accused herein Evans Ochieng Oyombe is charged alongside two others with the offence of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the charge are that, on the night of December 24, 2016, at Hill View Estate within Ruiru Town within Kiambu County they murdered Edwin Munene Njeru.
2. On February 2, 2023 when this matter came up for hearing, the 1st Accused sought to address the court in camera. The court allowed the 1st Accused to address the court on February 7, 2023, in the presence of his advocate Mr. Juma and state counsel Ms. Ngesa.
3. Record show that accused on 22/2/2017 was released on bond of Kshs. 500,000/= with two (2) sureties of similar amount. On 9/5/2017 bond terms were varied to Kshs. 300,000/= with two (2) sureties of similar amount.
4. By ruling delivered on 31/7/2019, the accused's bond was cancelled for failing to comply with the court's condition. The 1st accused filed application dated February 26, 2020 seeking reinstatement of bond and by ruling delivered on November 18, 2021 Justice Kasango declined to reinstate accused's bond.



5. Later the 1st accused again filed application dated July 6, 2022 seeking reinstatement of bond. By ruling delivered by Justice Rachel Ngetich on 15/1/2022, the application was dismissed.
6. On February 7, 2022 while addressing the court in the presence of his advocate and state counsel, he informed the court that his health condition has deteriorated. He said he has collapsed severally in prison and biopsy was recommended by Mbagathi Hospital. He said he was later told he has lung cancer.
7. The court summoned the incharge inmate medical facility to assist the court in establishing the 1st Accused's medical condition. Mr. Joshua Omboki the incharge Nairobi Remand facility attended court on 8/2/2023. He confirmed that the 1st Accused has collapsed severally in prison and that he has done nebulization on him. He however said there is need for Transesophageal Endocardiogram (T.E.E) to evaluate aneurism.
8. From the foregoing, there is no confirmation that the 1st Accused has lung cancer as he stated on 7/2/2023 but the symptoms he has exhibited require the Transesophageal Endocardiogram (T.E.E) test to establish his medical condition so that treatment can commence.
9. As indicated by the incharge medical facility, the machine for T.E.E examination is not working in the three medical facilities. In view of the fact that the 1st Accused cannot be attended to in the medical facilities available for inmates, I am inclined to review my ruling of December 15, 2022 and release on bond on stringent bond terms as recommended by State Counsel.
10. I therefore reinstate Accused 1's bond on new terms set hereunder.

Final Orders: -

11. Accused 1 may be released on bond of Kshs. 1million with one surety of a similar amount with alternative cash bail of Kshs. 500,000/=.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 8TH DAY OF FEBRUARY,2023

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RACHEL NGETICH

JUDGE

In the presence of:

Martin/Kinyua – Court Assistants

Ms. Ngesa for State

Mr. Juma for the 1st Accused

