



**State v Ateng (Criminal Case E001 of 2023) [2023] KEHC 17409 (KLR) (8 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17409 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E001 OF 2023**

**DO OGEMBO, J**

**MAY 8, 2023**

**BETWEEN**

**STATE ..... PROSECUTION**

**AND**

**DAN OTIENO ATENG ..... ACCUSED**

**RULING**

1. I have considered the application by the defence side for the release of the accused on bail. I have also considered the pre-bail report filed herein on February 3, 2023. The report intimates that the accused be ordered to remain in custody due to the fact that the ground remains hostile and the accused stands the risk of harm should he be released on bail at this time. The brother of the accused, Ateng' Ouma Samson, has however filed an Affidavit affirming that he is ready to receive and stay with the accused away at Kitale KWS Staff quarters, if he be released on bond.
2. The Prosecution has not opposed the release of the accused on bond. Under Article 49(1) (h), all persons accused are entitled to the right to bail, which right can only be denied should there be proved compelling reasons. With the concession made by the prosecution side, I am not convinced that there is any compelling reason good enough to justify the denial of the right to bail to the accused.
3. I accordingly therefore allow the application for bail. I order that the accused may be released on bail on the following conditions:-
  - i. A bond of Kshs 500,000/= with 1 surety of a similar amount.
  - ii. In the alternative, a sum of Kshs 200,000/= in cash bail.
  - iii. If released on bail, the accused shall not stay or reside at Okiro Village, Memba Sub-location, Central Asembo Location, Rarieda Sub-county of Siaya County, till this case is determined. As pleaded, the accused, shall, during the



pendency of this case, stay with his brother Ateng' Ouma Samson, in Kitale at the KWS Staff quarters, till this case is determined.

- iv. The accused is ordered never to interfere with or in any way contact any of the prosecution witnesses, directly or indirectly, till this case is determined.
- v. If released on bail, the accused is ordered to attend court at all times as would be ordered by the court from time to time, till this case is determined.
- vi. That a breach of any of the above conditions would lead to cancellation of the bond of the accused.

It is so ordered.

**THE RULING READ OUT IN COURT THIS 8<sup>TH</sup> DAY OF MAY, 2023.**

**D.O. OGEMBO**

**JUDGE**

**MAY 8, 2023**

**Court:**

**The Ruling read out in court in presence of the accused, Mr. Ooro for the accused and Ms. Mutisya for the State.**

**HON. D. O. OGEMBO**

**JUDGE**

**MAY 8, 2023**

