



**Republic v Oyeko (Criminal Case E028 of 2023)
[2023] KEHC 18733 (KLR) (Crim) (13 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18733 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E028 OF 2023
K KIMONDO, J
JUNE 13, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

CELESTINE ADHIAMBO OYEKO ACCUSED

RULING

1. The accused prays for bail pending trial.
2. Her learned counsel, Mr. Outa, submitted that bail is a constitutional right; that the accused is deemed innocent at this stage; and, that the replying affidavit sworn by the investigating officer does not disclose any compelling grounds for denial of bail
3. The application is opposed by the Republic. Learned Prosecution counsel, Ms. M. Kigira, submitted that the right to bail is not absolute. Reliance was placed on the replying affidavit of the investigating officer, Corporal M. Maitha, sworn on May 30, 2023. The key objections are that an accomplice remains at large; and, that considering the gravity of the charge and the applicable sentence, the accused may re-group with the accomplice or abscond altogether.
4. On May 31, 2023, I heard further submissions from both the learned counsel for the accused and the State.
5. I take the following view of the matter. The accused faces the serious charge of murder. The Director of Public Prosecutions informs the High Court that on the night of 15th and March 16, 2023 at around 01:30 hours at Baba Dogo Area, Starehe Sub-County within Nairobi County jointly with others not before the court murdered Brighton Litoro.



6. At this stage, and by dint of Article 50 (2) (a) of *the Constitution* the accused is presumed innocent. In addition, Article 49 (1) (h) of *the Constitution*, as read together with section 123A (1) of the *Criminal Procedure Code*, entitled her to bail unless there be compelling circumstances.
7. Regarding the phrase, compelling reasons, I am well guided by the decision of Gikonyo J in *Republic v Joktan Mayende & 3 others*, High Court, Bungoma Criminal Case 55 of 2009 [2012] eKLR.
8. The overarching objective of bail is to ensure the accused attends trial. See *Michael Juma Oyamo & another v Republic*, Court of Appeal, Nairobi Criminal Appeal 113 of 2018 [2019] eKLR; *Muraguri v Republic* [1989] KLR 181; *R v Fredrick Ole Leliman & 4 others*, Nairobi High Court Criminal Case 57 of 2016 [2016] eKLR.
9. The accused and the deceased were cohabiting in rented premises at Baba Dogo. That by itself does not negate her right to bail. However, I note from paragraph 6 of the replying affidavit that an alleged accomplice remains at large. I have also perused the committal bundle placed before the court. Considering the nature of the charge, the possible consequences and all the circumstances of this case, I find that there is a real likelihood that the accused may abscond. That is a compelling reason for denial of bail.
10. I decline to grant bail at this stage. However, in the interests of justice, I direct that that this trial shall be fast-tracked.
11. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF JUNE 2023.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of-
Accused.

Ms. M. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

