



**Republic v Omiti (Criminal Case E018 of 2023)  
[2023] KEHC 21119 (KLR) (3 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21119 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CRIMINAL CASE E018 OF 2023  
PM MULWA, J  
AUGUST 3, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**WYCKLIFE TINEGA OMITI ALIAS WILLIAM OMITI ALIAS WILFRED  
OMITI ..... ACCUSED**

**RULING**

1. The accused herein Wycklife Tinega Omiti alias William Omiti alias Wilfred Omiti is charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars are that on the night of 6<sup>th</sup> - March 7, 2023, in the Munyu area in Gatwanyaga Ward, Thika East Sub-County within Kiambu, County murdered Daniel Njuguna Mungai.
2. A mental assessment was conducted on April 27, 2023, in which the accused was found fit to plead. Upon plea on May 23, 2023, the accused denied the charge and stated: "I am saying that I did not kill anybody, I only bought a cell phone". A plea of not guilty was entered.
3. Ms. Githua counsel for the accused person pleaded with the court to release the accused on lenient bond terms, considering he is 20 years of age and that he undertakes to comply with any conditions set by the court.
4. Mr Muriuki the state counsel was not opposed to the release of the accused on bond but urged the court to call for a plea bail report.
5. The pre-bail report was filed on June 19, 2023. The community and local administrators were not interviewed as his family was unreachable. His kin could also not be reached. The accused mother and grandmother are deceased.



6. The pre-bail report stated the accused person has studied up to form 2 and had acquired a job training as a chef. He prays to be released on lenient bail terms. He states he is an orphan and lives with guardians.
7. The victim's family was opposed to the release of the bond.
8. Article 49(1)(h) of *the Constitution* guarantees an arrested person the right to be released on bond or/ bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.
9. This court in exercising its mandate to either grant or deny bail pending trial is guided by the Judiciary Bail and Bond Policy Guidelines which recognize that an accused person should be released on bond pending trial unless there are compelling reasons. The prosecution is vested with the duty of bringing to the attention of the court the compelling reasons that would warrant the denial of bond/bail pending trial.
10. The key consideration by the court in deciding whether to grant or deny bail is the accused attendance at the court during the trial. In the instant case, the prosecution is not raised any compelling reasons that would warrant the court to invoke its discretion and deny bail.
11. In the absence of any compelling reasons, this court will exercise its discretion and allow the application for bail/bond pending trial.
12. In the premises therefore, the accused may be released on a bond of Kshs 500,000 with one surety of a similar amount.

It is so ordered.

**Ruling delivered virtually, dated and signed at Kiambu**

**this 3<sup>rd</sup> day of August 2023.**

**P.M. MULWA**

**JUDGE**

**In the presence of:**

**Duale – court assistant**

**Mr. Muriuki - for the state**

**Ms. Kimathi - for the accused person**

**Accused - absent**

