



**Republic v Otieno (Criminal Case E022 of 2023)  
[2024] KEHC 16349 (KLR) (17 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16349 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E022 OF 2023**

**DK KEMEL, J**

**DECEMBER 17, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**EDWIN WANDERI OTIENO ..... ACCUSED**

**RULING**

1. The accused herein is currently facing a charge of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The particulars of the offence are that on the night of 24<sup>th</sup> and 25<sup>th</sup> August, 2022 at Mudindi village West Uholo location in Ugenya sub-county within Siaya County jointly with others not before court murdered one Beatrice Atieno Sulwe.
3. The accused denied the charge and the matter is currently ongoing wherein four witnesses have since testified and that the next hearing date is 20/1/2025.
4. Learned counsel for the defence has sought for review of bond terms as the accused has not been able to post bail. Learned counsel pointed out the sentiments of the probation officer in the pre-bail report are mere speculations and urged the court to grant the defence request for review of bond since the main concern is whether the accused will attend court for his trial.
5. Learned counsel for the prosecution opposed the review of bond and relied on the contents of the pre-bail report dated 2/12/2024.
6. I given due consideration of the rival submissions of learned counsels as well as the pre-bail report dated 2/12/2024. It is not in dispute that the accused entered a plea of not guilty to the charge herein and therefore he is deemed innocent until proved guilty. It is also not in dispute that vide Article 49 (1) (d) the accused is entitled to be released on bond pending trial unless there are compelling reasons to



be furnished by the prosecution not to be released. It is noted that upon the accused taking plea and denying the charge the court granted him a bond of kshs500,000/= plus one surety of like sum. Hence, it is clear that the accused could secure his freedom anytime once he secured a surety to bail him out.

The pre-bail report dated 2/12/2024 indicated that the local administration depicts him as a person with a history of involvement in unlawful activities and that he has a propensity for violence. It further indicates that he instils fear among community members and that he is a potential danger to peace and security of the community. It was the opinion of the probation officer that there is a likelihood of accused failing to attend court if released on lesser bond terms.

7. Looking at the circumstances of the case as well as the pre-bail report, there is no evidence that the accused has sought to present proposed sureties for approval by the court. The record does not indicate any particular date that proposed sureties presented themselves to the court (Deputy Registrar) and that there are no records indicating that any surety was found to be unsuitable to stand for the accused. In the absence of such evidence, I am not satisfied that good reasons have been furnished to justify review of bond terms. I find the bond terms herein to be reasonable in the circumstances and fall within the range usually granted by this court in several cases of this nature.
8. In the result, the defence request for review of bond is declined. Matter to proceed for further hearing on the 20/1/2025. Production order to issue.

**RULING DATED AND DELIVERED THIS 17<sup>TH</sup> DAY DECEMBER, 2024**

**D. KEMEI**

**JUDGE**

In the presence of:

Edwin Wanderi Otieno.....Accused

Mocha.....for Prosecution

Ogendo.....Court Assistant

