

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

CRIMINAL CASE NO. 25 OF 2017

REPUBLIC.....DPP

VERSUS

ISAAC WAFULA LUKHALE.....ACCUSED

RULING

1. The accused is charged with murder contrary to section 203 of the Penal Code as read with section 204 of the Penal Code, Cap 63, Laws of Kenya. The particulars of the offence allege that on 4th May 2013 at Mumbita Village, Mumbita Sub- Location of Emuhaya District within Vihiga County, jointly with others not before the court, he murdered Ibrahim Shillo. He pleaded not guilty to the charge.
2. What I am called upon to determine is his application for release on bond pending hearing. The application was opposed by the state on grounds that the accused could interfere with witnesses and was a flight risk. Interfering with witnesses because he was an ex-police officer, and flight risk because he had absconded when he was released on bond with regard to a case that was before the lower court but which was subsequently terminated, and the accused charged afresh in these proceedings.
3. Before ruling on the matter, the court called for a pre-bail report. The pre-bail report has been filed. It is not favourable to the accused person. It raises concerns with fact that the accused appears to be a person with no fixed abode, and that witnesses feared for their safety.
4. I have perused through the entire record. I have considered the pre-bail report too. My attention has been drawn to the fact that the accused person had absconded during the trial at the lower court. The concerns raised by the state regarding his capacity to interfere with witnesses appear to tally with the statement by the probation office, that witnesses were worried about safety should he be admitted to bail. I am persuaded that the accused would be a flight risk should he be admitted to bail. On that account, I hereby decline the application to have him realised on bail pending trial.

PREPARED, DATED AND SIGNED AT KAKAMEGA THIS 31st DAY OF January, 2019

W. MUSYOKA

JUDGE

DELIVERED, DATED AND SIGNED AT KAKAMEGA THIS 7th DAY OF February 2019

J. NJAGI

JUDGE