



**Republic v Silatei (Criminal Case E018 of 2022)
[2025] KEHC 14745 (KLR) (21 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14745 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAROK
CRIMINAL CASE E018 OF 2022
CM KARIUKI, J
OCTOBER 21, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ZACHARIAH NGETICH SILATEI ACCUSED

RULING

1. By the application dated 22/09/RO24, the accused seeks to be released on bail pending hearing and determination of the charges against him. The application is supported by the affidavit dated the same date and a further affidavit sworn by the accused on 19/03/2025. The victim’s family side Lodged an affidavit in opposition sworn by one Mopel Sena on 1.9.2025. The gist of the said application is that the accused is ailing and may not get proper treatment while he continues to be detained in custody.
2. The accused made an application to this Court to be released on bond pending trial. By the ruling dated 5/04/2023, this Court dismissed the application. The accused filed Criminal Appeal to challenge the ruling of this Court. In the ruling it’s the Court of Appeal dismissed the appeal and gave reasons for the dismissal.
3. At the time of the ruling by the Court of Appeal, the trial had not commenced. One of the reasons why the appeal was dismissed was that there was the likelihood of interference of witnesses by the accused and especially the vulnerable ones. In victim’s family side, it is deponed that there no changes of the circumstances in relation to the critical vulnerable eyewitnesses who is currently missing and is likely apprehensive for her safety is yet to testify to warrant grant of bail. Victims side have also filed submissions reiterating the contents of their replying affidavit.
4. It is noteworthy that the trial has commenced, and 8 prosecution witnesses have testified. Most of whom are related people and who have connections with the accused. The only civilian witness who



remains to testify is one Rose Byomdo who is a mother of one Naomi Chepkemoi who had gone to assist the deceased at her homestead.

5. Rose Byomdo's statement does not indicate whether she is related to the deceased. Apparently, several attempts have been made by the investigating officer to bond the witness. There is no indication that she will ever be traced to come and testify in Court. In the circumstances, it is unfair to deny the accused bond on the basis that Rose Byomdo has not been traced.
6. The right to bail is a constitutional guarantee and at this stage of the proceedings, there is no compelling reason why the accused should not be released on bond. Counsel for the public prosecutions has not opposed the release of the accused on bond. While counsel for the family of the deceased opposes the application.
7. This court is guided by the ruling of this Court in Criminal Case No. CCR/EO10/2025 - Rep -vrs- Paul Sena, which was delivered on 29/8/2025. In the said ruling, this Court critically analysed the grounds upon which an accused person may be released on bail. This court reiterated that The Bail and Bond Policy Guidelines (2015) provide inter alia that in determining whether compelling reasons exist, the Court must consider, inter alia: the nature and seriousness of the offence, the strength of the prosecution's case, the possibility of interference with witnesses, the accused's character, antecedents and community ties, the likelihood of flight, and the security of both the accused and the community. In the instant the trial court and the court of appeal narrowed issues to the element of interferences of certain characterized witnesses. Namely witnesses who have a relationship with him that is likely to make them vulnerable to interference have testified.
8. What is fundamental is that the court of appeal held that the appellant is at liberty to renew his application for bail/bond pending trial, once all witnesses who have a relationship with him that is likely to make them vulnerable to interference have testified. It is not contested that Rose Byomdo's statement does not indicate whether she is related to the deceased. She is the only civilian witness who remains to testify and is a mother of one Naomi Chepkemoi who had gone to assist the deceased at her homestead.
9. In Republic v Danson Mgunya & Another [2010] eKLR, the High Court emphasized that bail cannot be denied as a form of pre-trial punishment but must be assessed against concrete risks. What is the risk now? If prosecution is no longer having a witness who meets the characteristics prescribed by the court of appeal above, no other ground can at this stage warrant continuous detention of the accused.
10. considering the submissions on behalf of the accused together with the surrounding circumstances at the moment it is in order that the accused person be released on bail. The accused has given undertaking that he is ready and willing to comply with conditions imposed by this court for his release. Thus, the court makes the orders.
 - I. That the accused will execute a bond of Kenya shillings one million (ksh1,000,000) and one surety of equal amount.
 - II. And in addition to be reporting to the nearest DCI office every first week of the succeeding month with effect from 7.11.2025.
 - III. He shall also deposit his travelling documents with court including his passport.
 - IV. He shall not contact any remaining witness who has not testified directly or indirectly.

DATED AND DELIVERED AT NAROK VIA MICROSOFT TEAMS THIS 21ST OCTOBER 2025.

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CHARLES KARIUKI
JUDGE

