

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MAKADARA**  
**CRIMINAL DIVISION**  
**HOMICIDE SECTION CRIMINAL CASE NO E042 OF**  
**2025**

**REPUBLIC ..... PROSECUTOR**  
**VERSUS**  
**VICTOR ONYANGO OMONDI ..... ACCUSED**  
**RULING**

1. The accused faces a charge of murder contrary to section 203 as read with section 204 of the penal code to which he pleaded not guilty and in compliance with the provision of the Constitution on the right to be released on bond at Article 49(1)(h), the prosecution filed an affidavit opposing bail sworn by CPL Godfrey Munene dated 28<sup>th</sup> August 2025.
2. It was deposed therein that the accused and the deceased were both residents of Kariobangi Darfur Area where the deceased was a boda boda operator while the accused was a water vendor. On the 14<sup>th</sup> June 2025, the accused borrowed a mobile phone from the deceased so that he could insert his sim card to communicate with his customers and when the deceased came back for the same he found that the accused had left to unknown place without returning the hand set .
3. That on the 17<sup>th</sup> June 2025 at 1300 hours the accused re-appeared at the stage and when the deceased inquired from him the mobile phone , the accused alleged that he had left it at his house and when the deceased volunteered to accompany him to the house ,

he declined stating that he wanted to go for lunch and would come back later with the phone.

4. It was deposed that the accused came back later without the phone and an argument ensued between them with the accused pointing finger at while telling him that he will hit him ,leading into an altercation and the accused picked a firewood at the firewood selling point and hit the deceased twice on the back side of his head before running away, which incident was witnessed by eight people .
5. The following day the accused was found by the mob who beat him up as he wanted to stab them with a knife before he was arrested and handed over to the police. It was contended that if released the accused was likely to jeopardize , intimidate , interfered with and or influence the eight intended prosecution witnesses who were present and that there was likelihood of the members of the public lynching the accused to death .
6. The accused did not file any response.
7. In compliance with the bail bond policy guidelines, the court called for pre-bail report wherein it was stated that the was married with one child and that his family members spoke positively of him and that he understood the nature of the offence he was facing. The local administration at his rural home stated that they did not know the accused well but considered that his life was not at risk if he returned to their community where he has a fixed place of abode.

8. The kariobangi North area leaders reported a good knowledge of the accused persons family members as residence of the area but could not guarantee his safety if he returns to them .
9. On the victim it was stated that the family expressed feeling of grief and were angry towards the accused and wished that he is kept in custody till the conclusion of the cause as his safety could not be guaranteed .

### **SUBMISSIONS**

10. Ms Ogweno for the prosecution submitted that the accused and the deceased knew each other and the intended witnesses are their mutual friends, there was therefore real likelihood of interference and that the security of the appellant could not be ruled out having been subjected to mob injustice.
11. On behalf of the accused Mr Nyamanga submitted that the fact that the accused and the deceased had mutual friends does not mean interference as was stated in the case of William Kipronop Kipchirchir [2018] KLR and that where the prosecution alleges witness interference they must show how that will be done. On the likelihood of mob injustice , it was submitted that it was more than five months from the date of the alleged offence and the same could not be used to deny bond .

### **DETERMINATION**

12. Bond is a right of any arrested person and can only be denied where there are compelling reasons to

enable the court deny an accused the right to bail bond.

What constitute compelling reasons were stated by the Court of Appeal in **Michael Juma Oyamo & another versus Republic [2019] eKLR** stated to be forceful and convincing as to make the court feel strongly that the accused should not be released on bond, thus the accused should not be denied bond on flimsy ground but on real and cogent grounds that meet the constitutional standards.

These reasons are captured in section 4.9 of the Bail and bond Policy Guidelines which were further captured in section 123A (1) of the Criminal Procedure Code

13. In this matter the prosecution has indicated the fact that the accused was subjected to mob injustice and was likely to be subjected to the same should he be released on bond. It was further contended that the accused was likely to interfere with the eight prosecution witnesses in the estate should he be released on bail. These to my mind are compelling reason enough to enable the court deny the accused bond at this stage, for to release him taking into account the relationship between him and the deceased together with their mutual friends will compromise the prosecution case.

14. Further having been subjected to mob injustice and having not provided an alternative place of abode leads

to a conclusion that his security and safe may not be guaranteed should he be granted bond.

15. The accused shall, be remanded in custody pending the conclusion of this case and it is ordered.

**DATED SIGNED AND DELIVERED AT MAKADARA THIS 10<sup>TH</sup> DAY OF MARCH 2026**

**J WAKIAGA  
JUDGE**

In the presence of

Court Assistant -

Counsel for the state

Accused in person