



**Otego & another v Republic (Miscellaneous Criminal Case
E004 of 2026) [2026] KEHC 2846 (KLR) (24 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2846 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
MISCELLANEOUS CRIMINAL CASE E004 OF 2026
TW CHERERE, J
FEBRUARY 24, 2026**

BETWEEN

JAMES MOGAKA OTEGO 1ST APPLICANT

JUSTINE ONDIEKI NYABUTO 2ND APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before this Court is the Notice of Motion dated 27th November 2025 in which the Applicants seek admission to bail/bond pending trial in Keroka PM's Court MCCR E497 of 2025.
2. The Applicants are charged with the offence of robbery contrary to section 296(2) of the Penal Code. They approached this Court seeking bond review.
3. The Respondent, through the prosecution, indicated that when the plea was first taken on 07th August 2025, bond was not opposed. It was further indicated that the present application is similarly not opposed.
4. Article 49(1)(h) of *the Constitution* guarantees an arrested person the right to be released on bond or bail, on reasonable conditions, unless there are compelling reasons to the contrary.
5. In the present case, no compelling reasons have been advanced to justify continued pre-trial detention. Indeed, the Respondent has expressly indicated that the application is not opposed and that bond was not opposed at the time plea was first read.
6. Bail is not to be withheld as a form of punishment. The Applicants are presumed innocent until proven guilty. In the absence of demonstrated flight risk, likelihood of interference with witnesses, or other compelling considerations, the Court is obligated to uphold the constitutional right to bond.



7. In the circumstances, the application is merited. Accordingly, the Applicants are hereby admitted to bond on the following terms:
1. Each Applicant shall execute a personal bond of Kenya Shillings Five Hundred Thousand (KES 500,000) with one surety of a like sum (KES 500,000);
 2. The approval and verification of the sureties shall be undertaken by the trial court in Keroka MCCR No. E497 of 2025.

DELIVERED AT NYAMIRA THIS 24TH DAY OF FEBRUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

Applicant - Present

For the DPP - Ms. Kiptanui

