



**Republic v Maurice alias Babu (Criminal Case E017 of 2024)  
[2025] KEHC 3711 (KLR) (26 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3711 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL CASE E017 OF 2024  
DR KAVEDZA, J  
MARCH 26, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**BRIAN OTIENO MAURICE ALIAS BABU ..... ACCUSED**

**RULING**

1. The accused was charged with the offence of murder contrary to section 203 as read with 204 of the *Penal Code*, Cap 63 Laws of Kenya. The particulars of the offence are that on the night 17<sup>th</sup> and 18<sup>th</sup> November 2024 at Bombolulu Area within Nairobi County jointly with others not before court murdered Sospeter Onyango Osunga.
2. He has now approached this court seeking to be released on reasonable bail/bond terms pending his trial.
3. Article 49(1) (h) of *the Constitution* guarantees the right of an arrested person to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons for the person not to be released. The onus of proof in bail applications in respect of compelling reasons is borne by the state under section 123A of the *Criminal Procedure Code* (Cap 75) Laws of Kenya. The right for an accused person to be released on bail is not absolute.
4. In determining whether the interest of justice dictates the exercise of discretion under Article 49 (h) of *the Constitution*, the courts are to be guided by the provisions of section 123A of the *Criminal Procedure Code* (Cap 75) Laws of Kenya which provides:
 

“In such a determination the courts are to factor the following exceptions to limit the right to bail;

  - a. Nature or seriousness of the offence;



- b. The character, antecedents, associations, and community of the accused person;
- c. The defendants record in respect of the fulfilment of obligations under previous grant of bail;
- d. The strength of the evidence of his having committed the offence:
  - 2. A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person;
    - a. Has previously been granted bail and has failed to surrender to custody if released on bail, it is likely that he would fail to surrender to custody;
    - b. Should be kept in custody for his own good.
- 5. The pre-bail report on record, indicated that the accused has no verified community ties or stable residence posing a flight risk. His family lack the financial means to stand surety for him in the event he is released on bond. He relies on the personal bond request sort by his mother. On the other hand, the family of the victim are opposed to the application for bail.
- 6. The impression that the court gets from the probation report is that the accused has no known community ties. He was therefore likely to abscond if released on bail/bond. Accordingly, that is a sufficient basis of denying the accused bail pending trial.
- 7. Accordingly, the accused application for bail is dismissed at this stage.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 26<sup>TH</sup> DAY OF MARCH 2025**

---

**D. KAVEDZA**

**JUDGE**

