



**Republic v Rahudhi (Criminal Case E008 of 2024)  
[2024] KEHC 1844 (KLR) (27 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1844 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E008 OF 2024  
DO OGEMBO, J  
FEBRUARY 27, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**VICTOR OMONDI RAHUDHI ..... ACCUSED**

**RULING**

1. The accused, Victor Omondi Rahudhi faces a charge of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. He has applied to be placed on bond pending the determination of his case. The prosecution opposes the application of the accused on grounds that he has been on the run since the year 2020 and is therefore a flight risk.
2. Article 49 (1) (h) guarantees the right to bail to all arrested and accused persons irrespective of the nature of the charges that they face. The right of bail is otherwise not an absolute right. The right may be limited or denied should it be shown the existence of a compelling reason. Simply put, should there be any good reason that would justify a denial of the right to bail, then the same may be denied.
3. The prosecution has opposed the release of accused on bail on grounds that he is a flight risk likely to abscond never to turn up for his trial. The affidavit of the investigating officer, PC Benson Munyao Mutune is opposing this application, depones at paragraph 3 and 4 that whereas the incident took place on 14.4.2020, it was not until 26.1.2024, this accused was arrested. That all this time, the accused had escaped and or gone underground.
4. It has also been deponed that the accused is likely to interfere with prosecution witnesses and to prove this, the investigating officer has deponed to a report filed at Yala Police Station vide OB No. 16/13/1/2024 by wife of the deceased, Milicent Achieng, that accused has threatened to kill her just like he killed her husband.
5. The accused has not challenged these statements made on oath by the investigating officer.



6. For this application, this court ordered for and obtained a probation officer's pre-bail report. I have carefully perused the same report. Salient from the report are the following:-
- i. That the accused has been on the run for 3 ½ years.
  - ii. That the community is hostile against him and are not ready to welcome him back.
  - iii. That the accused is in fact a flight risk.
  - iv. That if released, the accused's own life would be in danger.
  - v. That he is a threat to prosecution witnesses.
7. The prime objective of the right to bail is to accord the accused the opportunity to go through his trial while he is out of remand custody. Bond is an opportunity available to the accused to conduct his trial while he continues to reside at his home as he goes about his social activities. It is not a licence for him to kill, intimidate, threaten and or in any way interfere with any prosecution witness. Neither is it an opportunity for him to escape never to turn up for his trial.
8. The accused herein has evaded arrest for about 3 ½ years. This is a pointer to the fact that he is a flight risk who is likely to abscond if he is released on bond. And as to likelihood of interfering with witnesses, at least proof has been laid by the prosecution of a report made by a witness of threat to her life by the accused.
9. These are grave objections raised by the prosecution and I am convinced that the prosecution has proved the existence of compelling reasons good enough as to justify the denial of the right to bail to the accused. I so find.
10. In the circumstances, I dismiss the application of the accused for bail pending his trial. I order that the accused shall be remanded in custody till the determination of his trial. It is so ordered.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2024**

**D.O OGEMBO**

**JUDGE**

27/2/2024

**Court:**

Read out in court in presence of accused, Mr. Odhiambo and Ms Mumu for the State.

**D.O OGEMBO**

**JUDGE**

27/2/2024

