



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Ouma (Criminal Case 73 of 2019)
[2024] KEHC 3554 (KLR) (Crim) (19 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3554 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE 73 OF 2019**

LN MUTENDE, J

MARCH 19, 2024

BETWEEN

REPUBLIC PROSECUTION

AND

PIUS JWANG'A OUMA ACCUSED

RULING

1. Pius Jwang'a Ouma, the accused, was charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Particulars of the offence being that on the night of 11th and 12th October, 2019 at Mabatini area in Huruma Sub-County within Nairobi County, he murdered Moses Memba Nguvu.
2. Through a Notice of Motion dated 10th June, 2021, the accused/applicant seeks to be released on bail pending trial. The application is premised on grounds that the accused has a fixed abode; he does not intend to interfere with witnesses and he is ready to comply with conditions given by the court.
3. The application is unopposed.
4. Following the order of this court, a social inquiry was carried out by the Probation officer, Ms. Abima, who advised that the accused be released on bond with stringent measures aimed at protecting the emotional wellbeing of the victims.
5. I have considered the application which is unopposed. The accused person's right to bail pending trial is a constitutional right as envisaged under Article 49 (1) (h) of *the Constitution* that provides that:
An accused person has the right ...



- (h) to be released on bond or bail, on reasonable conditions pending a charge or trial, unless there are compelling reasons not to be released.
6. It is also within the accused right to fair trial and to be presumed innocent until he is convicted by a court of law. This means that any incarceration during trial must be informed by the law.
7. Clearly, the right under Article 49(1)(h) above can be limited where the prosecution establishes compelling reasons in the case. In determining whether compelling reasons are existent, the State must provide such evidence. Having failed to respond to the application is proof of non-existent of any reasons whatsoever that would call for the accused continued incarceration.
8. Therefore, the accused may be released on Bond of Kenya Shillings Five Hundred Thousand (500,000/-) with a surety of an even sum; and, a contact person.
9. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT
NAIROBI, THIS 19TH DAY OF MARCH 2024**

L. N. MUTENDE

JUDGE

In the presence of:

Mr. Karanja for the Accused

Ms. Dela for ODPP

Court Assitants – Asin and Gladys

