



## REPUBLIC OF KENYA

### Cases in Magistrate Courts

### Criminal Case 31 of 2013

REPUBLIC.....PROSECUTOR

VERSUS

JULIUS ODONGO NGICHO.....ACCUSED.

### RULING

The accused is charged with murder c/sec. 203 as read with S. 204 of the Penal Code the particulars being that on 23.4.2013 at Genga Location within Homa Bay County jointly with others not before court murdered **Erick Ochieng' Odundo**.

He pleaded not guilty to the charge and has applied to be released on bond pending his trial. The application was made by Mr. Ongoso under Article 49(1)(h) of the Constitution.

The court was urged to consider that the accused surrendered himself to the police. Mr. Ongoso also contended that the accused was willing to provide sureties who shall ensure that he attends court.

The State did not oppose the application.

According to Miss Valery who represents the State there are no good reasons to do so. She urged the court to impose terms that will ensure that the accused does not abscond.

It would seem therefore that there are no compelling reasons not to release the accused. However I did obtain a pre-bail report which seems to suggest otherwise.

Mr. Ogada – Probation Officer Homa Bay has given a family background, personal history, antecedents and past character of the accused person which is very enlightening. The same cannot be ignored in making a ruling in this matter much as the court is guided by the principle that the accused is innocent until proven guilty. The report is made by an independent person who has stated that should the accused person be released, he is likely to be harmed and that it would be difficult to trace him were he to abscond as no member of his family is willing to stand surety for him.

The main consideration in granting bail is whether or not the accused person shall attend his trial and it has been demonstrated here that the accused is not likely to do so. In the circumstances I find that in this case there are compelling reasons not to release the accused and reject his application for bond.

Ruling dated, signed and delivered at Homa Bay this 3rd day of May 2013.

**E.N. MAINA**  
**JUDGE.**

In the presence of:

Eudice Okombo Dholuo interpreter.

Miss Valary for the Republic

Miss Nekesa for the Accused.

Accused person.