



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL CASE NO. E057 OF 2024

REPUBLIC

PROSECUTOR

VERSUS

VINCENT MUKOYA A.K.A. ANDERSON MUKOYA

ACCUSED

RULING

1. This is a disturbing case. The Accused was arrested on 29th October 2024. Thereafter he was charged with the offence of murder and entered a plea of not guilty on 27th November 2024.
2. In a ruling dated 21/1/2025, the court declined to admit the Accused to bail on account of the fact that he was considered a flight risk because he faces two separate charges of murder before the High Court in Kakamega and that he had disappeared after committing the first

offence in December 2023 and was only arrested after committing the second offence in November 2024.

3. The matter has been adjourned severally at the instance of the prosecution. On 25/2/2025, the prosecution said that they had inadvertently bonded the witnesses in respect to Criminal Case No. E056 of 2024 and not this case. On 18/3/2025, the prosecution did not have their witnesses and the Accused person's counsel urged the court to acquit the Accused. The court granted the adjournment and fixed the matter to 30/6/2025 when the prosecution once again sought an adjournment on account of absence of witnesses and the absence of the Investigating Officer. Although the Accused vehemently opposed the application, the court noted that this being a murder trial, the court would not be hasty to disallow the adjournment. The matter was then rescheduled to 15/12/2025 with an order that the DCIO do attend court.
4. Today, the witnesses are absent. Ms. Chala for the prosecution appeared virtually and indicated she is in Mombasa where she was forced to rush due to a personal emergency.

5. Under Section 344 of the Criminal Procedure Code, the court has power to grant adjournments upon the establishment of reasonable cause. The power is discretionary but must be exercised judiciously.
6. Ms. Chala has indicated that she had to attend to an unexpected personal emergency and was unable to travel from Mombasa for the hearing. In response to the Accused Counsel's contention that the ODPP as an institution should have arranged for another Counsel to prosecute the case, she argued that she did not have time to notify her office of her predicament. As a court, I have no reason to doubt Ms. Chala. She has been consistent in all court appearances in the past and cannot be faulted on the emergency that befell her. She is human like everyone else and prone to certain events in life that require her immediate attention and may draw her away from her official duty.
7. I agree with the Accused that there is a demonstrable lack of due diligence in this case. However, this matter is one year old and the mere reason it has been given close hearing dates is the fact that the Accused is in custody. If Ms. Chala was physically present in court, I would have been inclined to disallow the application for

adjournment. But the circumstances obtaining now are such that even if the witnesses were all present in court today, the matter would not have proceeded as Ms. Chala does not have access to her file bearing in mind she is away.

8. For the aforesaid reason, I will reluctantly allow the adjournment as a last adjournment. However, in view of the fact that the Accused is in custody, I hereby admit the Accused to bail subject to the following conditions:

- (a) That the Accused shall be released on a bond of Ksh. 800,000/= with one surety of similar amount.
- (b) That the Accused shall upon his release report twice a month to the office of the DCIO Likuyani Police Station, until further orders of this court and in default his bond shall stand cancelled.

Dated, Signed and Delivered at Kakamega this 15th day of December 2025.

**A. C. BETT
JUDGE**

In the presence of:

Ms. Chala for the Prosecution

Mr. Orute for the Accused

Court Assistant: Polycap

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