

GHANA / JUDGMENT

KWADWO OPOKU ROMEO VRS THE REPUBLIC
(KWADWO OPOKU ROMEO VRS THE
REPUBLIC) [2024] GHAHC 389 (8 October 2024)

COURT
ghahc

DECIDED
8 October 2024

Source: ghalii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF
JUSTICE HELD AT KIBI ON 8TH DAY OF OCTOBER, 2024 BEFORE HER
LADYSHIP RUBY NAA ADJELEY QUAISON (MRS) HIGH COURT JUDGE.
KWADWO OPOKU ROMEO
ACCUSED/APPLICANT
VRS

SUIT NO: D16/02/2025
....
THE REPUBLIC REPUBLIC/RESPONDENT

Accused/Applicant absent in lawful custody
Lois Konadu Bonti holding the brief of Maa Nyarkoa Twum Baah for
Republic/Respondent Present
Dollar Djaba Mensah for Applicant Absent

RULING

This is an application brought by the applicant seeking for an order for bail pending trial. The annexure which is the charge sheet and the facts of the case is attached and marked Exhibit “A”. In Exhibit “A” the accused/applicant is charged with one (1) Count of Murder contrary to Section 46 of Act 29/60. The counsel for the applicant stated that the applicant has been in custody since 4/05/2024. The counsel for the applicant further contended that the applicant should not be made to suffer in prison custody when his guilt has not been proven. That ones the Accused is awaiting committal he should be given the benefit of the doubt in respect of the charge and be granted Bail. The counsel for the applicant then stated that though the Attorney General is not in agreement with applicant on this issue of bail, it is however trite that traditionally the committal

process is known to take time. Since the apprehension of the 1 accused/applicant he has not seen any procedure to show that the Attorney General has advised police on the onward conduct of the case. The counsel for the applicant also stated that though he does not belittle the fact that it is a murder case, the issues surrounding the charge require evidence to be taken to unravel the true facts of the case. The accused/ applicant herein is pleading before the Circuit Court that the act was done in self defence whilst the prosecution says otherwise. Whilst parties await for the facts to be analyzed they pray the court for the accused to be granted bail in accordance with section 96

- (1) of Act 30. Accused person when granted bail is ready to provide sureties who would ensure he attends court. This is to ensure the applicant would not abscond if granted Bail. That the court has the power to impose conditions in granting Bail to ensure accused does not abscond. The Counsel for Respondent opposed this application for bail pending trial. The respondent relied on all the averments in their affidavit in opposition particularly paragraphs 6, 15 and 16 of their affidavit in opposition which stated thus: ... “... 6. That the Respondent denies paragraph 7 and says that the Applicant was arrested by the police at Akim-Juaso upon a tip off by Hon. Hans Sonny, the Assemblyman of the area when the Applicant was in the process of fleeing the Akim-Juaso township.
15. That the Respondent in further response to paragraph 12 says that the Applicant may interfere or influence the evidence in the case and as such, ought not to be granted bail.
16. That the Respondent denies paragraph 13. I am advised by Counsel and verily believe same to be true that in view of the seriousness of the offence with which the Applicant has been charged, the overwhelming evidence against him and the severity of the punishment the conviction is likely to entail, he is unlikely to appear to stand trial if admitted to bail...” 2 These paragraphs respondent backed up by referring the court to section 96(5)
- (6) of Act 30. In effect the respondent opined that the accused may not appear to stand trial. The respondent drew the courts attention to the fact that the accused has previously attempted to flee but upon a tip off was arrested by the police. The respondent again opined that the accused may interfere with witnesses and evidence before trial. That looking at the overwhelming evidence against accused and the severity of the punishment the conviction is likely to entail if the accused is granted bail they strongly believe accused would not appear to stand trial. That on the issue the Counsel for applicant raised concerning processes leading to trial, the respondent would like the court to know the advice has been ready since 5th September 2024 and the Bail of indictment is being worked on and would soon be ready for the committal process to commence. Thus in the light of the following, they pray the court does not grant bail to the accused/applicant. BY COURT: One of the primary conditions to consider in the determination of the grant of bail is that applicant is not a flight risk; that applicant is willing to appear in court to stand trial to prove his innocence. Per section 96 (5) (a), (6) of Act 30 the Court shall refuse to grant bail if it is satisfied an applicant may not appear to stand trial. The guiding principles upon which an accused may be admitted or refused bail are articulated in various decisions by the courts as

follows:

- i. The nature of the offence charged. ii. The type of evidence at the disposal of the prosecution. iii. The severity of the punishment if the charge is proved and iv. Whether or not the accused is likely to appear to stand trial. See: MIREKU & ORS. V THE REPUBLIC [1997-98] 1 GLR 915@ 920. See also: Dennis Dominic Adjei, Criminal Procedure and Practice in Ghana, page 168 -174. 3 In REPUBLIC V FRANCIS IKE UYANWURE [2013] 58 GMJ page162 @ 176 it was held that “section 96(5) and (6) of the Criminal and other offences (Procedure) Act 1960, Act 30 provides instances under which a person may not be granted bail and one of them is that the court should satisfy itself that if the accused person is granted bail, he will come to stand trial. In considering whether it is likely that the accused person may not appear to stand trial, the court shall take into consideration a lot of factors including whether or not the accused person has fixed place of abode in Ghana and is gainfully employed...” See: Legal Resource Book; The Law as decided by the Supreme Court of Ghana (2016 edition), Fred Obikyere page 49 Again the Court would have to consider whether the period accused person has been in custody and not tried constitute unreasonable delay; taking into cognizance that it takes quite some time to investigate a case of murder. What constitutes unreasonable delay to the Courts varied from one case to another. In the case of OWUSU V THE REPUBLIC [1980] GLR 460 the court held that the period of three (3) years after the charge of attempted murder had been preferred against the accused person and hearing had not commenced constituted unreasonable delay and admitted accused person to bail. However in the case of REPUBLIC V ARTHUR [1982-83] GLR 249 the high court held that it takes quite some time, to investigate a case of murder and to conclude that the case has been unreasonably delayed, the Court should take into consideration the nature of the offence, the circumstances under which the offence was committed and the particular context under which the offence was committed. The accused has attempted to abscond prior to being arraigned before the court but for the timely intervention of the police upon a tip off. This has not been denied/or is undisputed by the accused/applicant.

CONCLUSION

This court has considered the affidavits filed together with their annexures, as well as the oral arguments submitted. It is the view of the Court that aside the 4 fact that the charge brought against the accused person is grave for which the punishment is very severe; it is an undisputed fact that the accused applicant has previously attempted to abscond but for the timely intervention of the police. Again in a case of murder considering what process goes into preparation for hearing to commence less than one year does not constitute unreasonably delay. This case has not delayed unreasonably. Application for bail is refused. H/L RUBY N.A. QUAISON (MRS) (JUSTICE OF THE HIGH COURT) 5

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ghalii.org/akn/gh/judgment/ghahc/2024/389/eng@2024-10-08/source.pdf>

CASE PAGE <https://chat.esheria.ai/case-law/ghana/bail-ghahc-2024>

Prepared on 27 October 2026 · Esheria