



**Republic v Maritim & another (Criminal Case E023 of 2024)
[2024] KEHC 13366 (KLR) (30 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13366 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E023 OF 2024
JK SERGON, J
OCTOBER 30, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

SIMON CHERUIYOT MARITIM 1ST ACCUSED

DIANA CHERONO MARITIM 2ND ACCUSED

RULING

1. Simon Cheruiyot Maritim and Diana Cheronon Maritim the Accused herein were charged with the information of Murder Contrary to Section 203 as read with 204 of the Penal Code. The Particulars of the information dated 29th August, 2024 are that on the night of 15th and 16th day of August, 2024 at Chepngobob Village, Maso Sub Location in Kapsaos Location, Kericho East Sub County within Kericho County, jointly murdered, Nicholas Kiprono Ngetich alias Wesley.
2. The accused persons pleaded not guilty to the offence. The Accused have now applied to this court to be released on bond pending trial.
3. Ms. Naima Kirui, Learned Counsel for the accused urged this Court to admit the accused to bail on reasonable bond terms.
4. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions did not oppose the Accused Persons' application for bond.
5. The County Probation Officer was directed to file Pre-bail Probation Reports within 14 days from the date of the directive.
6. The county probation officer filed a pre bail report in respect of Simon Cheruiyot Maritim, in the said report, it is noted that the accused has a young family that depends on him and that his wife is the co-accused in the matter. The accused is not a flight risk and has a fixed abode.



7. The family members alluded to willingness to deposit the requisite bond to secure his release. The family of the deceased were still astonished at the circumstances that led to the demise of their kin, however, they were open to the reconciliation process and therefore not opposed to the release of the accused on bond and were willing to pursue justice in court.
8. The accused is well known to the local administrator who confirmed that the community members do not hold any grudge against the accused and therefore the home environment is safe.
9. The probation officer noted that the community did not express animosity and hostility towards the accused and in view of the prevailing safe environment recommended that there was no compelling reason warranting this court to withhold the release of Simon Cheruiyot Maritim on bond.
10. The county probation officer filed a pre bail report in respect of Diana Cheron Maritim, in the said report. It is noted that the accused has a young family, she is a wife and mother to three young children. She urged this court to consider her for bail/bond to enable her to go back home and take care of her young children as she and her husband are both in custody, there is no one left to take care of the children who have been forced to put up with relatives who are of humble means.
11. The family members alluded to willingness to deposit the requisite bond and to ensure that she attends court proceedings. The family of the deceased were still astonished at the circumstances that led to the demise of their kin, however, they were open to reconciliation and therefore not opposed to the release of the accused on bond and were willing to pursue justice in court.
12. The accused is well known to the local administrator who confirmed that she has a fixed abode and therefore not a flight risk. The local administrator confirmed that there is no animosity in the community and that the home environment is safe. The probation officer therefore recommended that Diana Cheron Maritim be considered for bail/bond subject to the court's discretion.
13. The right to bail is both constitutional and statutory, an accused person has a constitutional right to be released on reasonable bail terms unless there is a compelling reason not to grant the accused person bail.
14. The right to bail is entrenched in article 49 (1) (h) of *the Constitution* which states as follows:- "An arrested person has the right - to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released."
15. As a constitutional right, its enjoyment can only be limited if exceptional circumstances are established. In interpreting the right to bail, section 123A of the Criminal Procedure Code CAP 75 Laws of Kenya sets the parameters for the grant of the right to bail.
16. In *Republic v John Kahindi Karisa & 2 others* [2010] eKLR the court observed as follows; "A murder suspect has a constitutional right to be released on bail. This is an inalienable right and can only be restricted by the court if there are compelling reasons for him not to be released."
17. In the instant matter, I have taken cognizance of the fact there are no compelling reasons not to release the accused persons. I hereby allow the application for bond, the applicants to be released upon signing a bond of Kshs.200,000/= and a surety of similar amount.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 30TH DAY OF OCTOBER, 2024.

J. K. SERGON

JUDGE



In the presence of:

C/Assistant – Rutoh

Prosecutor - Musyoki

Accused – Present in Person

