



**Republic v Cheptoo (Criminal Case E022 of 2024)
[2024] KEHC 14921 (KLR) (28 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14921 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E022 OF 2024
JK SERGON, J
NOVEMBER 28, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

BRENDA CHEPTOO ACCUSED

RULING

1. Brenda Cheptoo the Accused herein was charged with two counts of Murder Contrary to Section 203 as read with 204 of the Penal Code.
2. The particulars of the information dated 7th August, 2024 for count I are that on the 12th day of July, 2024 at Kipkerieny Village, Kabartegan Location in Bureti Sub - County within Kericho County, the accused murdered Shirleen Chepkoech.
3. The particulars of the information dated 7th August, 2024 for count II are that on the 12th day of July, 2024 at Kipkerieny Village, Kabartegan Location in Bureti Sub - County within Kericho County, the accused murdered Jared Kipkemoi.
4. The accused person pleaded not guilty to the offence. Mr. Towett, the Learned Counsel representing the accused person urged this court to release the accused on reasonable bail terms.
5. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions opposed the Accused Persons' application for bail citing compelling reasons, stating that the accused murdered her two children and buried them in a shallow grave so that she can get married, there was a high likelihood that the accused would interfere with the witnesses also the safety of the accused was not guaranteed as the local community is yet to come to terms with the heinous offence.
6. The County Probation Officer was directed to file a pre-bail probation report. The Probation Officer complied and filed a probation report in respect of the accused. It is noted that the accused has a



strained relationship with her family, the strained relationship with her family notwithstanding, the family was willing to stand surety, however, they were conflicted because prior to this incident the offender would at times retreat to an unknown destination for several weeks without informing her family members. The Probation Officer noted that her behaviour would pose a flight risk if bonded and therefore deemed it prudent to have remain in custody until the matter is determined.

7. The local administrator reported that the accused is a resident of his area and was well known to him. He described her as an irresponsible individual and would not adhere/honour court orders if released on bond/bail. The local administrator reported that the community was strongly opposed to her release citing the heinous offence committed by the accused and that the deceased were children of tender age, therefore the home environment was hostile.
8. The probation officer noted that the home environment is not safe for the release of the accused on bond. The probation found that the accused was not suitable for bail/bond and therefore recommended that the accused remain in custody until the matter is heard and determined.
9. 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.
10. 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."
11. 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.
 12. 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."
13. In the instant matter, I have taken cognizance of the prevailing circumstances, the home environment is still hostile and therefore the safety of the accused is not guaranteed. I hereby decline to allow the application for bail, the accused to remain in custody. Renew the Application within 3 months.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 28TH DAY OF NOVEMBER, 2024.

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J. K. SERGON

JUDGE

In the presence of:

Musyoki – Prosecutor

Mr. Langat – C/Assistant

Accused – Present in Person

Towett for the Accused

