



**Republic v Rionongura (Criminal Case E011 of 2022)
[2024] KEHC 16617 (KLR) (19 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16617 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
CRIMINAL CASE E011 OF 2022
RPV WENDOH, J
DECEMBER 19, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

VINCENT RIONONGURA ACCUSED

RULING

1. The accused, Vincent Rionongura faces a charge of Murder contrary to section 203 as read with section 204 of the Penal Code.
2. The accused was arrested and arraigned in court on 19/8/2022 for plea. This case is now partly heard by Judge Mrima. Mr. Ndinyo, accused’s Counsel informed the court that so far accused has never been released on bond and requests that he be released on bond. Mr. Majale Prosecution Counsel explained that he had no objection to release of accused on bond save that he has another pending case before court 2 for Offence of attempted murder in Criminal case no. 546/2022 and that it is partly heard also.
3. The court called for a pre bail report and a report dated 8/10/2024 was filed. The report is not favourable to his release because accused is feared as a criminal in the home area and that he owns a firearm and the victim’s family fear that upon his release on bond, he may use the weapon on them and that they feel safer with accused in remand. The community also fear that the accused may use the weapon which is believed to be with accused’s brother who fled to Uganda with livestock after the attack.
4. Mr. Ndinyo submitted that the charges are allegations which are yet to be substantiated; that accused has a fixed abode where his family resides, that he is not a flight risk and that he will abide by the conditions that the court will give.



5. Article 49 (1) of the constitution guarantees an accused person’s right to bond. It states that; -
 - “An arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or a trial, unless there are compelling reasons not to be released.”
6. Section 123(A) of the CPC sets out exceptions to the right to bail. It provides that;
 1. Subject to Article 49(1) (h) of the constitution and notwithstanding section 123, in making a decision on bail and bond, the court shall have regard to all relevant circumstances and in particular –
 - a. The nature of seriousness of the offence;
 - b. The character, antecedents, associations and community ties of the accused person;
 - c. The defendant’s record in respect of the fulfillment of obligations under previous grants of bail; and
 - d. The strength of the evidence of his having committed the offence.
 2. A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person –
 - a. has previously been granted bail and as failed to surrender to custody and that if released on bail (whether or not subject to conditions), it is likely that he would fail to surrender to custody;
 - b. Should be kept in custody for his own protection.
7. The rationale behind the bail and bond policy in Kenya is premised on the constitutional imperative that an accused person is presumed innocent until the contrary is proved. An accused should be attending the hearing of his case with freedom contemplated under the constitution unless there are compelling reasons.
8. Existence of compelling reasons is the only limitation to the release of an accused person on bail or bond. The term compelling reasons has not been defined but some jurisdiction refer to it as exceptional circumstances or unusual and extra ordinary circumstances, Compelling reasons vary from case-to-case basis depending on circumstances of each case.
9. In Republic vs. Jokten Mayende and three (3) others 2012 eKLR and Wilson Thumbe V. DPP (2012) eKLR, the courts considered what compelling reasons means. In the concise Oxford Dictionary, 9th Edition, it is defined as “rousing, strong, interest attention, conviction or admiration.”
10. The question then is whether there are compelling reasons to deny accused bond. The state did not oppose the release of accused on bond.
11. It is noteworthy that accused faces another charge of attempted murder which is similar to the charge he faces. I have keenly considered the Probation Officer’s Report (POR) “which clearly the community is not ready to have accused back in the society because of his previous conduct and fear that he might attack them. Due to the animosity and fears in the community it is unsafe to release accused to the society at this stage.
12. Though Accused’s Counsel stated that accused has a fixed abode, that is contrary to the POR. In the report, the home of the accused was razed down by irate members of Public after the murder and the



parents have moved away. Even as accused's uncle offered to stand surety for him, it was not disclosed where accused would go to stay.

13. In my view since accused faces another similar charge, coupled with failure to have a fixed abode makes accused a flight risk. He may also be a danger to the community at large or to himself considering the manner in which the public reacted to the social enquiry.
14. In my view, there are compelling reasons to keep accused in remand. In the end, bond application is declined and dismissed. Accused will remain in remand during the trial of his case.

DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 19TH DAY OF DECEMBER, 2024.

R. WENDOH.

JUDGE.

Ruling delivered in open court in the presence of:

Mr. Majale for the state

Mr. Ndinyo for accused person

Juma - Court Assistant.

