



**Republic v Chepkoech (Criminal Case E027 of 2022)
[2023] KEHC 2541 (KLR) (29 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2541 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E027 OF 2022
RL KORIR, J
MARCH 29, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

SHEILA CHEPKOECH ACCUSED

RULING

1. The Accused was charged with the offence of murder contrary to section 203 of the *Penal Code*. On November 21, 2022, the Accused pleaded not guilty to the charge. The Accused thereafter made an application to be released on bond pending trial.
2. Bail/bond is a constitutional right provided under Article 49(1) (h) of the *Constitution*. The provision is clear that, unless there is some compelling reason, an Accused person ought to be released on bail, as a matter of right. It provides that:-

“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.”

3. In the *Bail and Bond Policy Guidelines* at Paragraph 3.1 (a), it is recommended that:-

.....Every accused person shall be presumed innocent (Article 50(2) of the *Constitution*). This is the primary rationale for the requirement of the *Constitution* that an arrested person has the right to be released on bail or bond.

The presumption of innocence dictates that accused persons should be released on bail or bond whenever possible. The presumption of innocence also means that pretrial detention should not constitute punishment, and the fact that accused persons are not convicts should be reflected in their treatment and management. For example, accused persons should not be subject to the same rules and regulations as convicts.....



4. Section 123A of the *Criminal Procedure Code*, Chapter 75 of the Laws of Kenya, stipulates 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 the relevant circumstances and in particular—
 - (a) the nature or 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 fulfilment 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 has 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.
5. The present application is not opposed by the prosecution. This clearly implies that there is no compelling reason to warrant denial of bond. The only remaining issue therefore is the determination of the terms upon which bond or bail can be granted.
6. I have considered a Pre-bail Report filed on December 21, 2022. The Report indicates that the Accused is a mother of two with the last born, Rian Kiprotich being the victim. Further, that she has a strong family support and that the community had embraced the court process and were eager to establish the truth. The Report recommends her release on bail.
7. It is salient to note that the Report indicated that the Accused's mother, Edna Chepngeno was ready to stand surety for the Accused.
8. In the end, I find the Application merited.
9. The Accused is granted bond on the following terms:-
- (i) She shall execute a personal bond of 300,000 and provide one surety of similar amount.
 - (ii) She shall attend court and not impede her trial in any way.
10. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 29TH DAY OF MARCH, 2023

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R LAGAT-KORIR

JUDGE

Ruling delivered in the presence of Mr Njeru for the State, Mr Barusei for the Accused, Siele and Susan (Court Assistant)

