



REPUBLIC OF KENYA



**Republic v Korir & 3 others (Criminal Case E001 of 2023)
[2023] KEHC 2722 (KLR) (29 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2722 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE E001 OF 2023
RB NGETICH, J
MARCH 29, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

CHARLES KORIR 1ST ACCUSED

MICHAEL ELIM 2ND ACCUSED

AMANA LONGOROKOL ALIAS MAPENGO 3RD ACCUSED

JOHN RUKO ALIAS KAKA 4TH ACCUSED

RULING

1. The accused persons were charged with the offence of Murder Contrary to section 203 as read with section 204 of the *Penal Code*. Particulars are that on the night of 24th and 25th December, 2022 at Katorong'ot village within Mogotio sub county of Baringo County jointly murdered Susan Elot Lorot.
2. On the March 6, 2023, the charge and its full particulars were read over to the accused persons who all denied the charges and a plea of not guilty was entered. The accused persons through their advocate applied to be released on bond. The state counsel informed the court she was not opposed to the accused being released on bond and the court made an order that a pre-bail report be prepared by the probation officer to assist the court in assessing bond terms. The pre-bail reports for each of the accused was filed on March 17, 2023.

1st accused prebail report

3. The victim's family are totally opposed to bond; they state that even though the accused is well known to them, he may be tempted to run away and their kin may not get justice.



4. The 1st accused's family are however ready to stand surety for him and are ready to avail him in court whenever he is required. The local administration on their part have no objection to the accused being granted bond. The probation officer's view is that the 1st accused can be admitted to bond subject to court's terms, conditions and discretion.

2nd Accused prebail report

5. The report states that the victim's family through one Vincent Kipyegon are opposed to the accused being admitted to bond. The reason for objection is the accused stays in an informal settlement and there are high chances that he might be motivated to abscond and run away to Lodwar (Turkana) which will be impossible to trace him. The local administration do not oppose the application for bond and states that the accused is a well-known person within the community. They further state that there is a minimal chance of the accused getting a person to stand surety for him as his family live in an informal settlement.
6. The accused's family states that they are ready to stand surety for the accused even though they do not have any property or any person to stand surety; that the accused is from a humble background and do not have land of their own.
7. The probation officer's view is the 2nd accused may be admitted to bond subject to court's discretion.

3rd accused pre-bail Report

8. The victim's family are opposed to the application for bond and states that the accused is staying in an informal settlement and may be a flight risk.
9. The local administration and the community states that the accused is well known in the area for he has resided in Mogotio for a period of more than 10 years; the accused does not have property in Mogotio and there are minimal chances that he will get a person to stand surety as the family is of low economic status. The probation officer recommends that the accused be granted bond subject to courts terms and conditions.

4th accused pre-bail Report

10. The accused stated that they stay in an informal settlement in Mogotio and have no property there and has nobody to stand surety for him because of his family's low economic status.
11. The victim's family who are neighbors with the accused person are firmly opposed to his application, the family states that the accused does not have fixed abode hence a flight risk, while the local administration states that the accused is well known in Mogotio but does not have fixed abode hence may be difficult to supervise him while on bond. The probation officer recommends that the accused can be admitted to bond subject to courts terms, conditions and discretion.
12. Article 49 of *Constitution of Kenya* provides that every accused person is entitled to bail pending trial unless there are compelling reasons raised. The right to bail is not absolute and where there are compelling reasons, the right may be restricted.
13. The Bond and Bail Policy Guidelines provide for the following non-exhaustive factors for consideration in bail applications:
 - (a) The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.



- (b) The strength of the prosecution case.
 - (c) The character and antecedents of the accused person.
 - (d) The failure of the accused person to observe bail or bond terms.
 - (e) The likelihood of interfering with witnesses.
 - (f) The need to protect the victim or victims of the crime.
 - (g) The relationship between the accused person and the potential witnesses.
 - (h) The best interest of child offenders.
 - (i) The accused person is a flight risk.
 - (j) Whether the accused person is gainfully employed.
 - (k) Public order, peace and security.
 - (l) Protection of the accused persons.
14. From the probation officer's report whose contents I have captured above in summary, the family of the victim are opposed to accused persons being released on bond. The reason for their objection of bond is the fact that the accused persons stay in information settlement. I however note that the local administration indicate that the accused persons are well known by the community but the challenge posed by their stay in information settlement is difficulty in getting security for bond.
15. However, the fact that accused person is unlikely to get security to deposit in court is not reason to deny bond. This may inform the need for alternative cash bail as long accused's place of aboard is known
16. I also note that there is no mention of likelihood of interreference with witnesses

Final Orders: -

- 17 Each accused person may be released on bond of kshs 500,000 with one surety of a similar amount with alternative cash bail of kshs 300,000.

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

RACHEL NGETICH

JUDGE

In the presence of:

Mr. Kemboi & Mr. Sitienei: Court Assistant

Ms Ratemo: Counsel for State

Mr. Kipkulei: Counsel for Accused

