



**Republic v Yator (Criminal Case E002 of 2023)
[2023] KEHC 2775 (KLR) (29 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2775 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE E002 OF 2023
RB NGETICH, J
MARCH 29, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

JONATHAN KIPROP YATOR ACCUSED

RULING

1. The accused Jonathan Kiprop Yator was 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 22nd day of December, 2022 at Borowonin Sub-location Kapropita Location in Baringo central Subcounty within Baringo murdered William Kiptongony.
2. On the March 6, 2023, the charge and its full particulars were read over to the accused who denied the charge and a plea of not guilty was entered. The state counsel informed the court that the state is not opposed to the accused being released on bond. The court made an order for a pre-bail report to be prepared by the probation officer to assist the court in determining bond terms. The pre- bail report was filed in court on March 27, 2023.
3. The report indicates that the local community which comprises of village elders and Nyumba kumi leaders interviewed say the accused is well known to them as a troublesome person within the community who has been assaulting people at will; that he is a threat in the neighborhood and if granted bond at the moment, he is bound to cause more harm or be harmed by immediate neighbors as revenge for his brutal attack to the deceased who was his father. They opposed his release on bond.
4. The accused’s family who are also the victim’s family are strongly opposed to accused being released on. From the report, the accused’s family members who include his grandmother, mother, brothers and sisters have all expressed open animosity towards accused stating that they are apprehensive of their



- safety since when he was released from prison after graviously assaulting the deceased herein, he came back and brutally murdered him
5. The accused pleads to be released on bond with a pledge to appear in court when required though none of the family members interviewed expressed wish to bail him out.
 6. 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.
 7. Factors to be considered in dial applications are captured in the Bond and Bail Policy Guidelines as hereunder: -
 - (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.
 8. From the probation officer's report, the family are apprehensive that the accused may harm them if released on bond. They indicated that upon being released after graviously assaulting the father, accused is alleged to have brutally murdered him. They have fears that he may harm family members in view of his previous record and he may also be harmed in view of the anger stemming from the alleged brutal mother of his father after the previous offence of gravious harm.
 9. I find the reasons advanced for opposing bond by accused's family and local community founded; and in view of open hostility expressed towards accused by the community accused/victim's family, it would be in the would be in the interest local community, victim's/accused's family and accused to deny accused bond at this stage of trial.
 10. Final Orders: -
 1. Accused is denied bond/bail
 2. Accused may renew bond application at a later stage if circumstances change.

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

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RACHEL NGETICH

JUDGE

In the presence of:

Mr. Kemboi & Mr. Sitienei: Court Assistants

Ms Ratemo: Counsel for State

Mr. Kipkulei: Counsel for Accused

Accused - Present

