



REPUBLIC OF KENYA



**Republic v Ngetich (Criminal Case E025 of 2023)
[2023] KEHC 26725 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 26725 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E025 OF 2023
JK SERGON, J
DECEMBER 20, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

DENNIS KIPKIRUI NGETICH ACCUSED

RULING

1. Dennis Kipkirui Ngetich, the Accused and Applicant herein is before this Court to face a charge of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*.
2. The particulars of the offence are that on 7th August, 2022 at Cheborgei Trading Centre in Bureti Sub-County within Kericho County, the Accused jointly with another before Court and another still at large Murdered Edmond Kipngetich Koech. The Accused pleaded not guilty to the offence.
3. The Accused has now applied to this Court to be admitted to bail pending trial.
4. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions opposed the Accused Person's Application for bail for the reason that the Accused is a flight risk. He further stated that the Accused Person has been on the run since the month of August, 2022.
5. Mr. Kiprono, Learned Advocate for Accused urged this Court to reject the assertion by Learned Prosecution Counsel that the Applicant is a flight risk. The Learned Advocate stated the Accused operates an open Veterinary Shop. He pointed out the Accused has never been on the run.
6. The County Probation Officer was directed to file a Pre-bail Probation Report within 7 days from the date of the directive. At the time of writing this ruling, the County Probation Officer had not filed his Pre-bail Report – despite having been directed to do so within 7 days from the date of plea.
7. Under Article 49 (1)(h) 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. Mr. Musyoki



has merely stated from the bar the Accused is a flight risk and further averred that the Accused has been on the run.

8. It is not disputed that the Investigating Officer in this matter has not filed an Affidavit detailing the Compelling reasons why the Accused Person should not be released on bond. I have also perused at the Charge Sheet and it is clear that the Accused was arrested on 5th day of December, 2023 without a Warrant of Arrest. There is no iota of evidence showing that the Accused is a flight risk. There is also no evidence that the Applicant was on the run.
9. There is no covering letter explaining the circumstances the offence was committed and the circumstances of the Accused's arrest. I expected either a covering letter or an Affidavit, the Accused's background.
10. With respect, I am persuaded by the arguments of Mr. Kiprono that no credible compelling reasons which can be used as a hindrance to the Accused being released on bond. The Applicant's Application has merit.
11. I hereby order that the Accused Namely:- Dennis Kipkirui Ngetich be admitted to bail. He can be released from custody pending trial upon signing a bond of Kshs 200,000/= with one surety of like sum.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF DECEMBER, 2023.

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J.K. SERGON

JUDGE

In the presence of:-

C/Assistant – Rutoh

Accused – Present

Prosecutor – Karanja

Koskey for the Accused

