



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

CRIMINAL CASE NO.E055 OF 2021

REPUBLIC.....PROSECUTION

VERSUS

BEATRICE CHEPNGETICH BOR.....ACCUSED

R U L I N G

1. The Accused Person is charged with Murder Contrary to Section 203 as read with section 204 of the Penal Code.
2. The Constitution of Kenya, 2010 states that arrested persons are eligible for release on reasonable bond or bail terms. Article 49 (1) (h) of the Constitution states as follows:-

“An accused 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. Similarly, section 123A of the Criminal Procedure Code gives the parameters for the grant of the right to bail and bond as follows:

“(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 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 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."

4. I have considered the pre-bail report which is not favourable.
5. The Prosecution has informed this Court that there is no compelling reason for this Court not to grant the Accused Person bond.
6. The Accused Person has been in custody since August, 2021 a period of six (6) months.
7. She has a minor child who is being punished by being incarcerated.
8. It is trite law that an Accused Person is presumed innocent until proved guilty.
9. I have taken issue with the Probation Officers who are forever telling this Court that members of the public are bitter and therefore the

Accused should be kept in custody.

10. It is the duty of the said Probation Officers who come in contact with members of the public and families of both the Deceased and Accused Person to encourage them to keep peace until the Court finalizes matters.

11. We are in an era where plea bargaining is allowed and it is the duty of the Court to embrace restorative justice.

12. I accordingly release the Accused Person on a bond of Kshs.300,000/= with one surety similar amount.

13. Mention on 4/4/2022 for Pre-Trial Conference and for a Hearing Date.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 23RD DAY OF FEBRUARY, 2022.

A. N. ONGERI

JUDGE