



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BOMET**

**CRIMINAL CASE NO. E004 OF 2022**

**REPUBLIC.....PRESECUTOR**

**VERUS**

**BENARD ROTICH.....ACCUSED**

**RULING**

1. Benard Rotich (Accused) is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on 29<sup>th</sup> day of January, 2022 at Kipsingei Village, Ndanai Division in Sotik Sub-County within Bomet County murdered Isaac Rotich.
2. The Accused took plea on 10<sup>th</sup> February,2022 and denied the charge. His trial is set to commence on 17<sup>th</sup> October,2022. At the pre-trial conference on 3<sup>rd</sup> March,2022 the defence counsel Mr. Koech applied for the accused to be released on bond pending trial.
3. In urging the application, Counsel submitted that the accused though accused of killing his brother, enjoyed the presumption of innocence under Article 50 and was entitled to bond under Article 49 of the Constitution. Counsel urged the court to grant bail as the accused was the bread winner of his young family.
4. On his part Prosecution Counsel Mr. Muriithi submitted that the State had no compelling reasons and was therefore not opposed to the application.
5. I have considered the application. The probation report filed on 2<sup>nd</sup> March,2022 states that both the accused and deceased were siblings and that the family was supportive of his release on bond. That there was no threat to the accused’s safety.
6. Bail is a Constitutional right available to an accused person unless there were compelling reasons. In this case the State has stated that there were no compelling reasons. The probation officer’s report is favourable to the accused and has also demonstrated that the accused came from a poor socio-economic background.
7. Consequently, I find no compelling reason to deny the accused bond. He is granted bail on the following conditions: -
  - i. Execute a personal bond of Kshs. 300,000/= and provide two sureties of similar amount.
  - ii. He shall keep the peace and not commit any other offence or intimidate witnesses directly or indirectly.
  - iii. He shall attend court whenever required.

Orders accordingly

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 29<sup>TH</sup> DAY OF MARCH, 2022.**

.....

**R. LAGAT-KORIR**

**JUDGE**

**Ruling delivered in the presence of Mr. Koech Gideon for the Accused, Mr. Muriithi for the State and Kiprotich (Court Assistant).**