

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

CRIMINAL APPEAL NO. E 010 OF 2020

LUKA CHEPKONGA KIMUGE.....APPLICANT

– VS –

REPUBLIC.....RESPONDENT

RULING

1. The accused is charged with the offence of Murder Contrary to **Section 203 as read with Section 204 of the Penal Code.**

He has applied to be released on bond.

The Prosecution has no compelling reasons to oppose bail.

2. Bail is a Constitutional right to an accused person under **Article 49(1)(h) of the Constitution.**

3. If no compelling reasons for the prosecution to oppose such bail, it ought to be granted on reasonable terms. Such terms are deducible from the nature and seriousness of the offence.

4. The offence of murder is a very serious offence. However, the presumption of innocence of the accused is a factor to be considered by the court in an effort to decide the terms that ought to be attached to the bail/bail if granted. Each case is therefore to be decided upon its peculiar circumstances.

5. I have considered the circumstances under which the offence is alleged to have been committed, and that the Prosecution has no compelling reasons for denial of bail.

I therefore admit the accused to bond/bail on the following terms:

- 1. He shall be released upon signing a bond of Kshs 350,000/- or, upon**
- 2. Cash bail in the sum of Kshs 250,000/-, being deposited into court.**
- 3. He shall not interfere with witnesses during pendency of the case.**
- 4. He shall attend court as and when required to attend.**

Delivered, Dated and Signed at Kerugoya this 15th day of January 2021.

J. N. MULWA

JUDGE