

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. 20 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

OBADIAH KIPKORIR NGENO.....ACCUSED

RULING ON BAIL

1. The accused Obadiah Kipkorir Ngeno is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code (CAP 63) laws of Kenya. The particulars of the offence are that on 8th day of August 2020 at Mbalek area in Bomet Central Sub-county within Bomet County jointly with another not before the court murdered Dominic Bor.
2. The Accused took plea on 3rd December 2020 and denied the charge. His counsel then applied for his release on bail pending trial. Counsel further requested that a pre-bail report be filed to assist the court in determining bail.
3. The pre-bail report was filed on 8th February 2021. Defence counsel urged the application on 11th February 2021. She submitted that the Accused was a resident of Bomet and was not a flight risk. That he was a student at Chepkoelel University and wished to be released to continue with his studies. Counsel further submitted that the Accused was willing to abide by any reasonable bond conditions.
4. On his part, Mr. Mureithi for the prosecution left the matter at the discretion of the court.
5. I have considered the application. The pre-bail report states that the Accused's parents vouched for his good conduct prior to joining Chepkoelel university. They stated that he began engaging in alcohol and substance abuse due to peer pressure at the University. Nonetheless the parents were willing to stand surety for him.
6. The report further detailed that there was a lot of animosity on the ground particularly from the deceased's relatives. That the said relatives were not willing to entertain any overtures towards reconciliation from the Accused's relatives and were hostile to the prospect of his being released on bail. Nonetheless, the probation officer departed from his findings and recommended the Accused's release on bond.
7. Under Article 49 (i) (h) of the constitution, an Accused no doubt is entitled to bail unless there were compelling reasons. In this case, the prosecution has not given the court any compelling reasons to deny the Accused bail. I observe however that the pre bail report has captured hostility on the ground which might jeopardize the Accused's safety. While the court emphasizes that it is the duty of the police to ensure the safety and security of all persons, the court also acknowledges that there are times when security lapses occur as happened when the deceased lost his life. For this reason therefore I am persuaded not to grant the Accused bail at this stage. He shall remain in custody pending trial or until further orders of this court.
8. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 25TH DAY OF FEBRUARY, 2021.

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R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Defence Counsel Ms. Chepkemoi, Mr. Mureithi for the DPP, and Kiprotich (Court Assistant).