

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. E003 OF 2020

REPUBLIC.....ACCUSED

VERSUS

RONALD NGETICH KIPKOECH.....ACCUSED

RULING

1. Ronald Ngetich Kipkoech (Accused) is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. He is alleged to have murdered one David Sang on 9th November, 2020 at Tegat village, Tegat location within Bomet County.

2. The Accused pleaded not guilty to the offence on 25th February, 2021 during which time his defence counsel asked the court to call for a pre-bail assessment report. When the matter came up for pre-trial on 17th March 2021, Mr. Koske for the Accused made an oral application for the Accused to be released on bail pending trial. In his brief submissions, counsel grounded his application on Article 49(i) h of the Constitution while urging that there was no compelling reason to deny the Accused bail. He submitted that he had perused the pre-bail report and urged that there was no evidence of the accused tampering with prosecution witnesses.

3. The application was opposed by Mr. Murithi Principal Prosecution Counsel. He submitted that the Accused was a flight risk as he had no permanent accommodation and social ties. Counsel further submitted that the community was hostile to the Accused's release.

4. In brief rejoinder Mr. Koske submitted that there was no report from the investigating officer to show that the Accused was not accepted by the community. He urged the court to consider the pre-bail report holistically and prayed for lenient bond terms.

5. I have considered the application. Needless to state, Article 49 (i) h of the Constitution grants a suspected or accused person the right to bail pending charge or trial unless there are compelling reasons.

6. In the present case, the prosecution has opposed bail on the grounds that the accused has no permanent social ties and residence. This submission is not backed by any evidence. To the contrary, the probation officer's report shows that he interviewed the Accused's family and relatives and that the Accused's family was even willing to stand surety for him. On community ties, the report states that the Accused was a well known motorcycle repairer within Chemaner township. The prosecution's submission that the Accused had no permanent residence or social ties must therefore be dismissed.

7. The probation report however states that the Accused and deceased were close relatives, the deceased being the Accused's paternal uncle. That there had been a long standing dispute between the two families over division of their ancestral land and that the killing of the deceased had escalated hostilities between the two families.

8. Having taken the above circumstances into consideration, I am disinclined to grant the Accused bail at this stage. He shall remain in custody until the relatives who are witnesses have testified.

9. Orders according.

RULING DELIVERED, DATED AND SIGNED THIS 31ST DAY OF MARCH, 2021.

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R. LAGAT-KORIR

JUDGE

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