

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. E001 OF 2021

REPUBLIC.....PROSECUTOR

VERSUS

MATHEW KIPLANGAT MUTAI alias CHEPELION.....ACCUSED

RULING

1. The Accused Mathew Kiplangat Mutai alias Chepelion 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 Benard Kiplangat Kirui on the 25th December, 2020 at Mosoricho village in Tergat location within Bomet County.

2. The Accused took plea on 26th January 2021 and denied the charge. He has now applied to be released on bail pending trial.

3. In urging the application, Ms. Chepkemoi learned defence counsel submitted that the Accused was a resident of Bomet County and was not a flight risk. That he was the breadwinner of his family and that he was willing to abide by any conditions given by the court. Finally, counsel prayed that the Accused be granted reasonable bond terms under Article 49 (i) (h) of the Constitution.

4. On his part, Mr. Waweru for the Prosecution submitted that they would rely on the bail assessment report filed by the Probation Officer.

5. The Probation Officer's report dated 18th February 2021 states that the Accused dropped out of school in primary class 3 and since then, he became an alcoholic who whiles away his time in illicit drinking dens. The report paints him as a person who frequently engages in violence and unnecessary quarrels with both family and members of the community. Further, the report states that the relatives of the deceased were bitter and vengeful and that therefore there was a likelihood that they might harm the Accused if released on bail.

6. I have considered the application. I observe that the Prosecution has no particular opposition to the application as it asked the court to consider the bail assessment report. The report as stated above has documented the situation obtaining on the ground and has not recommended the release of the Accused on bond.

7. Bail is a Constitutional right granted by Article 49 (i) (h) of the Constitution and can only be curtailed by the existence of a compelling reasons. In this case, I have considered the antecedents of the Accused. That he is a person given to violence and that the situation on the ground was still volatile. I am disinclined to grant the Accused bail at this stage. He shall be at liberty to renew his application at a later stage. He shall remain in custody until further orders of this court.

8. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 28TH DAY OF APRIL, 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).