



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. E016 OF 2021

REPUBLIC.....PROSECUTOR

VERSUS

SHARON CHEBET LANGAT.....ACCUSED

RULING

1. Sharon Chebet Langat (Accused) is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on 22nd day of August 2021 at about 2230 hours at Chemaner village in Chemaner Location, within Bomet East Sub-County murdered Emmanuel Kipkorir.

2. She took plea on 12th October, 2021 and denied the charge. Her Counsel promptly applied that she be admitted to bail pending trial.

3. The court called for a bail assessment report which report was filed on 10th November 2021. At the pre-trial on 15th November 2021, defence counsel Mr. Koske submitted on the bail application and urged the court to grant the Accused reasonable bond terms. Counsel made reference to the Bail information report stating that it was not favourable to the Accused. He however observed that the report stated that the Accused's mother was willing to stand surety for her. On his part, Prosecution Counsel Mr. Murithi urged the court not to grant bond to the Accused. He submitted that the Bail Information report had raised issues of safety of the Accused's child.

4. I have considered the application. Bail is a constitutional right available to a suspect or accused person where there are no compelling reasons as provided by Article 49 (i) h of the Constitution.

5. Section 123A of the Criminal Procedure Code sets out the parameters to guide the court in considering an application for bail. It provides thus:-

(1) Subject to Article 49(1)(h) of the Constitution and notwithstanding section 123, in making a decision on bail and bond, the Court shall have regard to all the relevant circumstances and in particular—

(a) the nature or seriousness of the offence;

(b) the character, antecedents, associations and community ties of the accused person;

(c) the defendant's record in respect of the fulfilment of obligations under previous grants of bail; and;

(d) the strength of the evidence of his having committed the offence;

(2) A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person—

(a) has previously been granted bail and has failed to surrender to custody and that if released on bail (whether or not subject to conditions) it is likely that he would fail to surrender to custody;

(b) should be kept in custody for his own protection.

6. In addition to the above, The Judiciary's **Bail and Bond Policy Guidelines, March 2015** sets out judicial policy on bail at page 25 as follows:-

The following procedures should apply to the bail hearing:

(a) The Prosecution shall satisfy the Court, on a balance of probabilities, of the existence of compelling reasons that justify the denial of bail. The Prosecution must, therefore, state the reasons that in its view should persuade the court to deny the accused person bail, including the following:

a. That the accused person is likely to fail to attend court proceedings; or

b. That the accused person is likely to commit, or abet the commission of, a serious offence; or

c. That the exception to the right to bail stipulated under Section 123A of the Criminal Procedure Code is applicable in the circumstances; or

d. That the accused person is likely to endanger the safety of victims, individuals or the public; or

e. That the accused person is likely to interfere with witnesses or evidence; or

f. That the accused person is likely to endanger national security; or

g. That it is in the public interest to detain the accused person in custody.

7. This case presents rather peculiar circumstances. Although evidence is yet to be led in the trial, the Probation Officer who visited the Accused's home and interviewed her close relatives filed the report that the deceased in the case was the young child of Accused and that she had severally expressed a desire to kill her two children. That on the fateful day, the older child aged 6, managed to escape. The report suggests that the relations between the Accused and her husband and parents in law was now frosty following the incident. The report also raises safety concerns for the elder child of the Accused whom she had previously threatened to kill.

8. I have taken into consideration the above factors and the need not to expose the other child of the Accused to danger in view of the report filed by the Probation Officer. I exercise my discretion not to grant the Accused bail at this stage. She is at liberty to renew her application at a later stage.

9. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 16TH DAY OF DECEMBER, 2021.

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R. LAGAT-KORIR

JUDGE

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