



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BOMET**

**CRIMINAL CASE NO. 1 OF 2020**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**MICHAEL KIPNGENO KIRUI.....ACCUSED**

**RULING**

1. The accused 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.

He is alleged to have murdered one Cosmas Rono in concert with others not before court, on 15<sup>th</sup> December 2019 at Kyogong location in Bomet Central sub-county within Bomet County. The Accused pleaded not guilty before Dulu J on 3<sup>rd</sup> March 2020. His counsel promptly made an application for the accused to be released on a bail pending trial. In response the Prosecution asked the court to order a pre-bail report.

2. When the matter came up before me on 12<sup>th</sup> November, 2020, Ms. Chepkemai for the Accused reviewed the bond application. She submitted that the Probation Officer's report had been filed and was favourable to the Accused. She submitted that the Accused was a resident of Bomet County and was not a flight risk. She further submitted that there were no compelling reasons to deny the Accused bail and prayed for reasonable bond terms.

3. On his part the learned Prosecution Counsel in his brief submission acknowledged that the probation report was favourable to the Accused and left the matter to the discretion of the court.

4. I have considered the application. The Constitution grants the Accused the right to bail under Article 49 (1) (h). The right is only limited by the existence of compelling reasons which must be brought to the attention of the court by the Prosecution. The pre-bail report which was cited by both the Prosecution and the defence recommends that the Accused be released on bail. The report states that both the accused's family and the deceased's family were supportive of the recommendation and were ready to reconcile. I therefore have no reason to deny the Accused bail.

5. The Accused is granted bail on the following conditions:-

- i. He shall post cash bail of Kshs.300,000/= with one surety of similar amount.
- ii. As an alternative to 1 above, the accused shall execute a personal bond of Kshs.300,000/= and provide 2 sureties of Kshs.300,000/= each.
- iii. He shall not interfere with witnesses in any way.
- iv. He shall attend court whenever required and shall not impede the trial in any way.

6. Orders accordingly.

**Ruling delivered, dated and signed this 30<sup>th</sup> day of November, 2020.**

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**R. LAGAT-KORIR**

**JUDGE**

**This ruling has been delivered in the absence of the Accused and Defence Counsel and in the presence of Mr. Mureithi for the DPP and Kiprotich (Court Assistant). The DR of the Court to email the ruling to respective parties.**