



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT ELDORET**  
**CRIMINAL CASE NO. 2 OF 2014**

**REPUBLIC:.....PROSECUTOR**

**VERSUS**

**ALBERT KIPROP CHERUIYOT:..... ACCUSED**

**RULING**

The applicant, ALBERT KIPROP CHERUIYOT, was charged with the offence of Murder, contrary to Section 203 as read with Section 204 of the Penal Code.

He has pleaded “Not Guilty.”

He now seeks to be released on Bond, pending he hearing and determination of his case.

The prosecution has opposed the application. Mr. Munene, learned state counsel, submitted that the accused is a flight-risk.

The prosecution's contention is founded upon the affidavit sworn by CPL. DOMITILA MULWA, who is the Investigating Officer in the case.

In her affidavit, the Investigating Officer makes reference to the bitterness of the relatives of the deceased and of the society members. Following the attitude of the members of the society who reside where the offence was committed, the accused person is said to have run away.

Mr. Kitigin, the learned advocate for the accused, told this court that the accused escaped to a neighbouring District because he was securing his life.

In effect, the accused confirmed that he fled from one District to another.

He went on to explain that if he had not fled, he would have been lynched.

However, he insists that he was entitled to protection, to be provided by the police. Therefore, in his view, there was no compelling reason.

Having given due consideration to this matter, I note that the accused fled from the District where the offence was committed, and went away to another District.

His reason for fleeing was that he feared for his life. Had he not fled, the accused believes that he could have been lynched.

To my mind, the accused expressly acknowledges that his personal security may be compromised if he was granted bail pending trial.

The state machinery, and in particular, the members of the Kenya Police Service, are expected to provide security to all persons who are within this country. The accused is one such person, who is entitled to security.

However, this court cannot purport to shut its eyes and ears to the reality on the ground. The reality is that the Kenya Police Service cannot guarantee the security of every person who is in Kenya.

Indeed, I believe that the accused fully appreciated that reality, hence his decision to flee to a neighbouring District.

I therefore find that the prosecution had demonstrated that there is a compelling reason, to warrant a denial of bail pending trial. Accordingly, the application for Bail is rejected, at this moment. If the circumstances should change, at a later date, it could always be open to the accused to make another application.

**DATED, SIGNED AND DELIVERED AT ELDORET**

**THIS 19TH DAY OF MARCH, 2014**

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**FRED. A. OCHIENG**

**JUDGE**