



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.26 OF 2013**

**REPUBLIC - PROSECUTOR**

**VERSUS**

**ELIJAH CHEPKOWNY KIBET - ACCUSED**

**RULING**

Elijah Chepkwony Kibet, is before this court to face a charge of Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on 16<sup>th</sup> June 2013 at Makitem Village in Bureti District within Kericho County, it is alleged he murdered Gilbert Kipng'eno Bett. The case is yet to be heard. On 8<sup>th</sup> July 2013, the accused was released on bail/bond pending trial under Article 49 (1) (h) of the Constitution.

On 27<sup>th</sup> March 2014 Mr. Lopokoiyit, learned Prosecution counsel applied to have the accused's bond/bail to be cancelled because it was alleged he had begun to interfere with witnesses. This court was prompted to suspend the accused's bond and called for a pre-bail report to be filed to establish the veracity of the prosecution's allegations. I have looked at the Probation report filed by the Probation Officer Bureti. The report shows that the victims family were shocked that the accused was released on bond too soon after he was arrested and charged. The deceased appears to have bought land from the accused's brother and whenever they went to till the land they feel insecure especially when the accused is within the vicinity. It is said no reconciliation efforts have been made to reconcile the affected families. It is said that the accused has past criminal records and that the community is not comfortable if the accused is released on bond. There is a report that tension is high at home hence the accused may not be safe.

After a careful consideration of the pre-bail report, there is no evidence that the accused has interfered with witnesses. There is also no evidence that he has breached any terms of the bond terms. I also acknowledge the fact that the victim's family are bound to be bitter for the loss of their loved one and particularly when there are no efforts made to reconcile the affected families. I hereby re-instate the accused's bond terms given on 8<sup>th</sup> July 2013.

Dated, signed and delivered in open court this 4<sup>th</sup> day of April, 2014.

J. K. SERGON

JUDGE

In the presence of:

- Miss. Kivali for Director of Public Prosecutions
- N/A for Accused