



REPUBLIC OF KENYA

High Court at Kericho

Criminal Case 36 of 2011

REPUBLIC.....PROSECUTOR

-VERSUS-

ERICK KIPRONO SIGEI.....ACCUSED

RULING

1. The accused is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the 3rd day of September 2011 at Starehe Hotel in Kedowa Trading Centre in Kipkelion District within the Rift Valley Province, he murdered Dominic Kiprotich Langat.
2. The accused took plea on 24th January 2012 and pleaded not guilty to the charge. The prosecution case then commenced on 19th March 2012 with the State calling a total of eight witnesses. The prosecution case was heard before Hon. Lady Justice Jean Gacheche (as she then was). Hearing of the prosecution case was concluded on 25th April 2012.
3. Both the State and the Defence consented to this matter progressing before me pursuant to Section 201 (2) of the Criminal Procedure Code.
4. When the matter came up on 12th February 2013 for submissions on whether or not the accused had a case to answer, both the State and the Defence indicated to court that they wished to rely on the court record.
5. I have carefully considered the evidence tendered by the witnesses called by the prosecution.
6. Under Section 203 of the Penal Code, the offence of murder is committed when a person causes the death of another person by an unlawful act or omission and with malice aforethought.
7. In the case before me, PWI Robert Kipsigei Koech, who confirmed to be the father of the accused testified that on the fateful morning, he left both the accused and Dominic Kiprotich (the deceased) at his hotel where the two were carrying out chores in the kitchen of the Hotel. Dominic was boiling some water in the kitchen and the accused was washing dishes. PWI went to take some money to a Mama Charity about 30 metres away. As he was having tea with Mama Charity, he heard people shouting and started walking back to the hotel. He then saw the accused running without his shirt with someone called Wilwili following him in hot pursuit. On reaching the hotel he found the deceased laying outside the hotel with a stab wound on his back.

8. PW2He went to take some ruling relates to an oral application by counsel for the accused person Mr. Orina for revision of bond terms imposed upon the accused person by this court (Hon. Mutende J.) on 13th November 2012. The application was made on 14th February 2013 when the matter was listed before me for directions on the hearing thereof.

9. In her ruling delivered on the aforesaid date, Hon. Justice Mutende granted the accused bond of Kshs. 500,000/- with two sureties of a similar sum.

10. In his submissions, Mr. Orina told the court that the bond terms imposed by the court on 13th November 2013 were not affordable to the accused person. He urged me to revise the terms to an affordable amount and to reduce the number of sureties to one.

11. I have considered the submissions by counsel.

12. I note that when the bail application was first made, the State did not oppose the same. The State did not also have an issue with the resent request for revision of the bond terms.

13. This court is enjoined to create a balance that ensures that attendance of an accused person in court is secured while at the same time place reasonable terms of the said security. In the case before me, the court record contains a pre-bail report filed on 6th November 2012 through which the Probation Officer expresses no reservation against grant of bond to the accused person. In particular, the report underscores that the accused is a 53-year old man who is diabetic and who is prepared to abide by all conditions set by the Honourable court.

14. On the strength of the pre-bail report, and having considered the submissions by counsel for the accused person, and there being no opposition to the present application from the State, I am inclined to revise the bond terms issued by my sister Hon. Mutende J guided by the need to observe the accused's constitutional right to bail while safeguarding his future attendance to court.

15. In the circumstances, the existing bond terms are hereby revised and the accused granted bond of Kshs. 200,000/- with one surety of a similar amount.

16. It is so ordered.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 20th DAY FEBRUARY 2013.

**J.M. MUTAVA
JUDGE**