



REPUBLIC OF KENYA



**Republic v Kipkoech alias Nairobiian & 3 others (Criminal Case E015 of 2022) [2025] KEHC 4808 (KLR) (23 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4808 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE E015 OF 2022  
JK NG'ARNG'AR, J  
APRIL 23, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**RONNY KIPKOECH ALIAS NAIROBIAN ..... 1<sup>ST</sup> ACCUSED**

**HARMON KEMBOI ALIAS CHERUIYOT ..... 2<sup>ND</sup> ACCUSED**

**ERICK KIPRONO CHERUIYOT ..... 3<sup>RD</sup> ACCUSED**

**ROBERT KIPNGETICH ..... 4<sup>TH</sup> ACCUSED**

**RULING**

1. The Accused persons had been charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars are that on 25th May 2022 at Ngererit Village, Mogogosiek Location, Konoin Sub County within Bomet County, jointly murdered Vincent Kipkemoi Yegon.
2. Counsels for the Accused made an Application for the Accused to be released on bond. On 20th June 2024, this court granted bond to the 2nd, 3rd and 4th Accused on the terms that they would sign a personal bond of Kshs 300,000/= and provide a surety of similar amount. This court deferred the 1st Accused's bond until further orders.
3. It is Ruling dated 20th June 2024, this court noted:-

“It is clear the court was concerned with the possibility of witness interference. The key witness in the case testified on 28th September 2023 and was stood down before completing her testimony as the exhibits had not been availed in court. She therefore has not been cross-examined.”



4. From the excerpt above, it was evident that this court was reluctant to grant the 1st Accused bond because it feared for witness's (PW1) safety and potential witness interference from the 1st Accused. It is salient to note that PW1 was the 1st Accused's sister.
5. I have gone through the record and I have noted that PW1 was recalled to testify on 13th November 2024 where she completed her testimony and was cross examined by Mr. Barusei, counsel for the 1st and 2nd Accused and Mr. Koske, counsel for the 3rd and 4th Accused.
6. On 18th February 2025, this court ordered that a fresh pre bail report be filed and the same was filed on 14th March 2025.

### **Pre bail Report**

7. The Report casts the 1st Accused as a person who has a history of violence, drugs and substance abuse and who heavily indulges in cigarettes and alcohol. The Report further stated that the community had concerns over the life and safety if released and further that the 1st Accused had weak family and communal ties due to his alcoholism. The Assistant Chief stated that the 1st Accused had a record of criminal cases to his name and were hesitant to recommend him for bail or bond.
8. The Report stated that the victim's family were still traumatized, pained and bitter at the victim's death and that the 1st Accused's family had not approached them for forgiveness.
9. In regards to the bond, the Report stated that the 1st Accused's father was willing to stand surety for him.
10. It was the recommendation of the Probation Officer that the 1st Accused should not be released on bail and should remain in custody until the matter is heard and determined.
11. Article 49(1) (h) of *the Constitution* provides:-

An arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released.
12. This court has held that it was the duty of the prosecution to demonstrate compelling reasons. In the celebrated case of Republic vs Danson Mgunya & another (2010) eKLR, Ibrahim J (as he then was) held:-

“In our Constitution it is stated expressly, positively and unequivocally that an arrested person has the right to be released on bond or bail on reasonable conditions pending a charge or trial. This means an accused must be released on bail or bail on reasonable conditions. The only exception or fetter to this right is that there must be “compelling reasons not to be released”. The court must therefore exercise its discretion with this in mind – “existence of compelling reasons.”
13. The learned prosecution Mr. Njeru opposed the release of the 1st Accused on bond. Counsel stated that the pre-bail report was detailed and that the community could not guarantee the 1st Accused's safety upon release. Counsel further stated that the 1st Accused was a flight risk and that his family was disintegrated.



14. On the issue of the state of the 1st Accused's family, this court in an earlier Ruling dated 20th June 2024, this held:-

“This court while appreciating the home environment report in respect of the 1st Accused, notes that the lack of harmony in the home and broken child-parent relationships were outside the purview of the criminal charge facing the Accused. There would therefore be no reason to deny the 1st Accused bail once PW1 completed her testimony.”

15. In regards to the Prosecution's submissions in opposition of the bond, it is my finding that the Prosecution did not provide compelling reasons for this court to deny the 1st Accused bond. He should have filed an affidavit to support his averments and not just rely on mere averments. It is salient to note that while considering whether or not to grant the 1st Accused bond, this court is minded of the fact that the 1st Accused is presumed innocent unless proven guilty as per Article 50 of *the Constitution*.

16. Flowing from the above, I do not find any compelling reason to deny the 1st Accused persons bond. This court bears in mind that the primary purpose of bail is to ensure that the Accused attend the trial.

17. In the end, I make the following orders:-

The 1<sup>st</sup> Accused may be released on a bond of kshs. 500,000/- with one surety of similar amount.

**RULING DELIVERED, DATED AND SIGNED THIS 23<sup>RD</sup> DAY OF APRIL, 2025.**

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**J.K.NG'ARNG'AR**

**JUDGE**

Ruling delivered in the presence of Kipngetch for Barusei for the 1<sup>st</sup> and 2<sup>nd</sup> Accused, Chirchir holding brief for Koske for 3<sup>rd</sup> and 4<sup>th</sup> Accused. Siele/Susan (Court Assistant).

