



**Republic v Rono (Criminal Case E005 of 2024)
[2024] KEHC 2846 (KLR) (14 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2846 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E005 OF 2024
JK SERGON, J
MARCH 14, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

ROBERT KIPLANGAT RONO ACCUSED

RULING

1. Robert Kiplangat Rono the Accused herein is before this Court to face the information of Murder Contrary to Section 203 as read with 204 of the Penal Code. The Particulars of the information dated 15th February, 2024, are that on 31st January, 2024 at around 17:30 Hours at Chepngisiriet Village, Kaborok Location in Belgut Sub-County within Kericho County, the accused murdered Benjamin Kipyegon Tonui. The accused person pleaded not guilty to the offence. The Accused has now applied to this court to be released on bond pending trial.
2. Mr. Langat, Learned Advocate for Accused urged this Court to admit the accused person to bail on reasonable bond terms.
3. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions is not opposed to the Accused Person’s application for bond, rather, he sought to have a pre bail report filed in court. He further submitted that the investigating officer would swear an affidavit explaining the compelling reasons in the instant application.
4. The County Probation Officer was directed to file a Pre-bail Probation Report within fourteen (14) days from the date of the directive.
5. The county probation officer filed a pre bail report, in the said report, it is noted that the accused urged this Court to grant him bail, he was willing to abide by the bond terms and not jeopardize justice and/ or interfere with the witnesses. The accused has a family that fully depends on him for school fees and daily upkeep. The accused also takes care of his ailing mother. The accused enjoys quality relationships



with the family members and the community. The family members were willing to deposit the requisite security for release of the accused and to ensure that he attends court proceedings without fail. The family was ready to support the accused to pursue justice in court. The family of the deceased is still bitter and have not accepted an apology from the accused's person's clan, however, they did not give any compelling reason for the court to withhold his release on bond. The accused has strong community ties and there is no animosity or threats of attack on him in the event he is released on bail. The local administration and community were not opposed to his release on bond.

6. The probation officer noted that there was no compelling reason for the court to withhold the accused's release on bond and therefore recommended that this Court grant the accused bond and allow his family members to deposit the requisite security for his release.
7. The right to bail is both constitutional and statutory, the accused person has a constitutional right to be released on reasonable bail terms unless there is a compelling reason not to grant the accused person bail.
8. The right to bail is entrenched in article 49 (1) (h) of *the Constitution* which states as follows:- "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."
9. As a constitutional right, its enjoyment can only be limited if exceptional circumstances are established. In interpreting the right to bail, section 123A of the Criminal Procedure Code CAP 75 Laws of Kenya sets the parameters for the grant of the right to bail.
10. In *Republic v John Kahindi Karisa & 2 others* [2010] eKLR the court observed as follows; "A murder suspect has a constitutional right to be released on bail. This is an inalienable right and can only be restricted by the court if there are compelling reasons for him not to be released." *The Constitution* does not define the term "compelling reasons". However, there are several High Court cases that have deconstructed the phrase "compelling reasons" in *Republic v Joktan Mayende & 4 Others* Bungoma High Court Criminal Case No. 55 of 2009, the court defined the term "compelling reasons" as follows: "The phrase compelling reasons would denote reasons that are forceful and convincing as to make the court feel very strongly that the accused should not be released on bond. Bail should not therefore be denied on flimsy grounds but on real and cogent grounds that meet the high standard set by *the constitution*."
11. In the instant matter, I have taken cognizance of the fact that the prosecution is not opposed to the application for bail and the fact that the pre-bail report is favourable. At the time of writing this ruling the investigation officer had not yet filed an affidavit citing compelling reasons. Consequently, I find that there are no compelling reasons not to admit the accused to bail. The accused person is admitted to bail. The Accused namely: Robert Kiplangat Rono should be released upon signing a bond of Kshs.200,000/= plus one surety of like sum.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 14TH DAY OF MARCH, 2024.

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor – Mr. Musyoki



Accused – Present in Person

Miss Chepkorir holding brief for O. Langat for Accused.

