



REPUBLIC OF KENYA



**Republic v Kipkoech & 3 others (Criminal Case E015 of 2022)
[2024] KEHC 7466 (KLR) (20 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7466 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E015 OF 2022
RL KORIR, J
JUNE 20, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

RONNY KIPKOECH ALIAS NAIROBIAN 1ST ACCUSED

HARMON KEMBOI ALIAS CHERUIYOT 2ND ACCUSED

ERICK KIPRONO CHERUIYOT 3RD ACCUSED

ROBERT KIPNGETICH 4TH ACCUSED

RULING

1. The Accused persons are 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. The Accused took plea on 27th June 2022 and applied to be released on bail. Their application was however contested by prosecution. In a Ruling dated 8th November 2022, I declined to release the Accused on bail at that stage as there was proven likelihood of interference of a key witness who was yet to testify. I also directed that the Accused were at liberty to renew their bail applications at a later date when the key witnesses and in particular the sister of the accused had testified.
3. The 1st Accused's sister (PW1) testified on 28th September 2023 and upon conclusion of her testimony Mr. Barusei counsel for the 1st and 2nd Accused made an oral application for the 1st and 2nd Accused to be admitted to bond. Mr. Njeru, learned Prosecution Counsel did not oppose the Application and further urged the court to be guided by the Pre bail reports.



4. Mr. Koske, counsel for the 3rd and 4th Accused filed a Notice of Motion Application dated 27th November 2023 seeking the admission of the 3rd and 4th Accused to bail terms. Mr. Njeru, learned Prosecution Counsel submitted that he had initially opposed but he urged the court to be guided by the Pre bail reports.
5. On 9th April 2024, I directed that fresh Pre-Bail Reports be filed.

Pre Bail Reports

1st Accused (Ronny Kipkoech Kirui alias Nairobiian)

6. The Pre bail report dated 17th April 2024 casts the 1st Accused as a person who has a history of 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 of his sister upon the 1st Accused release.
7. It was the recommendation of the Probation Officer that the court should consider not releasing the 1st Accused should on bail.

2nd Accused (Harmon Kemboi alias Cheruiyot)

8. The Pre Bail Report dated 17th April 2024 casts the 2nd Accused as a person who heavily indulged in alcohol and smoked cigarettes. The Report stated that the 2nd Accused, a musician, was loved within the community as he would thrill fans during shows. That he had not been associated with criminal activities in the locality.
9. It was the recommendation of the Probation Officer that the 2nd Accused could be released on bond.

3rd Accused (Erick Kiprono Cheruiyot)

10. The Pre bail report dated 17th April 2024 stated that the 3rd Accused had no history of drug and substance abuse and had no criminal record. The Report further stated that the community were surprised by his arrest. That the 3rd Accused was known to engage in farming activities like ploughing.
11. It was the recommendation of the Probation Officer that the 3rd Accused could be released on bond.

4th Accused (Robert Kipngetich)

12. The Pre Bail Report dated 17th April 2024 stated that the 4th Accused had no history of drug and substance abuse and had no criminal record. The Report further stated that the community were surprised by his arrest. That the 3rd Accused was known to engage in farming activities like ploughing.
13. It was the recommendation of the Probation Officer that the 4th Accused could be released on bond
14. I have also considered the victim impact statements which were similar in the aforementioned four Probation Reports. The Reports stated that the victim's family was still traumatized, angry and bitter. That there had been no effort or approach from the respective families of the accused to seek forgiveness and reconciliation. The Report further stated that the victim's family felt that the Accused's families should take the initiative to reconcile with them through the performance of rituals and traditional cleansing rights.



15. In denying the Accused bail previously, this court stated at paragraph 17 of its Ruling of 8th November 2022 thus:-

A key issue that arises from the social inquiry report is the relationship between the Accused, the deceased and the key witness. Other than the negative emotions of the deceased's relatives regarding the possible release of the accused, there is a distinct possibility of interference with the main witness who is the sister to the accused and in whose company the deceased is alleged to have been assailed leading to his death. Interference with witnesses has time and again been found to be a compelling reason within the meaning of Article 49(i) (h) of the Constitution.

16. 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 has therefore not been cross-examined.

17. From the current probation reports, there was no danger of interference by the 2nd, 3rd, 4th Accuseds. The situation on the ground which was likely to precipitate violence is now calm and there is no danger of harm to the accused.

18. The probation report in respect of the 1st Accused has painted a grim picture of the home environment where there is perceived conflict between the father and his children including PW1 over the release of the 1st Accused on bond. The probation officer cited community members having raised concern over the safety of PW1 whom they perceive would be in danger.

19. 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.

20. Having considered the Applications for bail, the Pre bail reports all dated 17th April 2024 and the victim impact statements, I do not find any compelling reason to deny the 2nd, 3rd and 4th Accused persons bail. This court bears in mind that the primary purpose of bail is to ensure that the Accused attend their trial.

21. In the end I grant the 2nd, 3rd and 4th Accused bail on the following conditions:-

- i. Each accused to execute a personal bond of Kshs 300,000/- and each accused shall provide one surety of similar amount.
- ii. Each Accused shall not interfere with prosecution witnesses.
- iii. Each Accused shall attend court whenever required.

22. The 1st Accused's bond is deferred until further orders of the court.

23. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 20TH DAY OF JUNE 2024.

.....
R.LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the 4 Accused,



Mr Njeru for the state, Ms Chirchir holding brief for Mr Barusei for the 1st and 2nd and Mr. Koske for the 3rd and 4th accuseds and Siele (Court Assistant)

