



**Republic v Chebet (Criminal Case E004 of 2024)
[2024] KEHC 7355 (KLR) (14 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7355 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE E004 OF 2024
RB NGETICH, J
JUNE 14, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

WESLEY KIPROP CHEBET ACCUSED

RULING

1. The accused Wesley Kiprop Chebet has been charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the charge were that the accused on the 2nd day of April, 2024 at Kasire village, Kapluk sublocation in Baringo North murdered one Samuel Kiprotich Kimweny.
2. The accused pleaded not guilty to the charge and the prosecution did not oppose the accused being released on bond. The court called for a pre-bail report to be filed to assist the court in determining bond. On the 8th May, 2024 the report was filed.

Pre-bail Report

3. From the report, the victim’s father is still very bitter and state that the accused’s family have not visited them to condole with them. The victim’s family threaten to harm the accused if released on bond.
4. The community members interviewed said the accused had been suspected of murdering a lady before the incident herein occurred. The local administration is of the opinion that accused remain in remand as the ground is still hostile towards him.



Determination

5. Bail is a constitutional right of every citizen. Article 49(1)(h) of *the Constitution* is explicit that, unless there is some compelling reason, an accused person, be he a citizen or foreigner, ought to be released on bail, as a matter of right, pending the hearing and determination of his/her case.
6. Moreover, by dint of Article 50(2) of *the Constitution*, every accused person is entitled to the presumption of innocence. The presumption of innocence dictates that accused persons should be released on bail or bond whenever possible. The presumption of innocence also means that pretrial detention should not constitute punishment, and the fact that accused persons are not convicts should be reflected in their treatment and management; accused persons should not be subject to the same rules and regulations as convicts.
7. Accordingly, Section 123A of the *Criminal Procedure Code*, Chapter 75 of the Laws of Kenya, stipulates that:
 1. Subject to Article 49(1)(h) of *the Constitution* and notwithstanding Section 123, in making a decision on bail and bond, the Court shall have regard to all the relevant circumstances and in particular—
 - a. the nature or seriousness of the offence;
 - b. the character, antecedents, associations and community ties of the accused person;
 - c. the defendant's record in respect of the fulfilment of obligations under previous grants of bail; and;
 - d. the strength of the evidence of his having committed the offence;
 2. A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person—has previously been granted bail and has failed to surrender to custody and that if released on bail (whether or not subject to conditions) it is likely that he would fail to surrender to custody;

should be kept in custody for his own protection.
8. The overarching objective of bail is to ensure the accused attends his trial. Relevant matters to be considered by the court include the nature of the charge, the likely sentence, previous criminal records, the views of the family of the victim, the possibility of interference with witnesses; the temptation to abscond and the safety of the accused.
9. From the sentiments of the local administration, the accused's security is not assured. The victim's family and community are still hostile towards accused and in my view, it will not be safe to release him at this stage of the trial.
10. Final Orders:
 1. I decline to release accused on bond.
 2. This case to proceed for hearing on priority basis.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 14TH DAY OF JUNE 2024.

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**RACHEL NGETICH
JUDGE**

In the presence of:

Court Assistant: Elvis.

Ms.Ratemo for State

Accused: Present

