



**Republic v Rotich (Criminal Case E014 of 2024)
[2024] KEHC 8952 (KLR) (25 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8952 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E014 OF 2024**

**JK SERGON, J
JULY 25, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETERSON KIPTOO ROTICH ACCUSED

RULING

1. Peterson Kiptoo Rotich the Accused and Applicant herein is before this Court to face a charge of Murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The particulars of the offence are that on the 19th May, 2024 at Ngoina Road Shopping Centre in Bureti Sub-County within Kericho County, the Accused murdered Dennis Cheruiyot. The Accused pleaded not guilty to the offence.
3. The Accused through his Advocate on record, has now applied to this Court to be released on reasonable bail terms.
4. Mr. Timothy Musyoki, Learned Senior Assistant Director of Public Prosecutions stated that there are no compelling reasons to oppose the Accused Person’s Application for bail.
5. The County Probation Officer was directed to file a Pre-bail Probation Report within 10 days from the date of the directive.
6. The county probation officer filed a pre bail report, in the said report, it is noted that the accused enjoys quality relationship with his family and has strong ties in the community. The accused has no history of criminality in the village or associations with antisocial individuals. The accused has a fixed abode. The accused committed to attend court hearings as and when required and to pursue the matter in court to its conclusion.



7. The victim's family hails from Kericho County whereas the accused is from Bomet County. They pray that justice be delivered to their slain kin and without furnishing any compelling reasons, they feel that the accused will jeopardize justice if released on bond.
8. The family members of the accused urged this court to grant the accused favourable bond terms. They are willing to ensure that the accused attends court without fail in the event this court releases him on bond. They are willing to deposit the requisite security for the release of the accused on bond.
9. The probation officer noted that he found no compelling reasons against releasing the accused on bond and given that the families live apart there was no possibility of the accused facing hostility and the accused jeopardizing justice by interfering with the witnesses. The probation officer therefore recommended that the court consider granting the accused favourable bond terms while taking into account the economic status of the family of the accused.
10. 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.
11. 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.
12. 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.
13. In *Republic v John Kabindi 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."
14. *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*."
15. In the instant matter, I have taken cognizance of the fact that the prosecution was not opposed to the application for bail and that the pre bail report is favourable. I find that there are no compelling reasons not to admit the accused to bail.
16. I hereby order that the Accused Namely:- Peterson Kiptoo Rotich be admitted to bail. He can be released from custody pending trial upon signing a bond of Kshs 200,000/= with one surety of like sum.

DATED, SIGNED AND DELIVERED THIS 25TH DAY OF JULY, 2024.

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J.K. SERGON

JUDGE

In the Presence of:-



C/Assistant – Rutoh

Prosecutor – Mr. Musyoki

Accused – Present in Person

O. Lang’at holding brief for Malel for the Accused

