



**Republic v Chebon (Criminal Case E008 of 2024)  
[2024] KEHC 11110 (KLR) (24 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11110 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE E008 OF 2024  
RB NGETICH, J  
SEPTEMBER 24, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ALEX KIPLAGAT CHEBON ..... ACCUSED**

**RULING**

1. The accused Alex Kiplagat Chebon 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 are that on the dates between 19<sup>th</sup> and 20<sup>th</sup> day of June,2024, at Barsemoi village of Ewalelsoi Location in Marigat Sub-County within Baringo County, the accused murdered Stacy Jebungei.
2. The accused denied 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 the bond.
3. From the report the accused person had formal education up to class 8 at Rurobai primary school where he sat for his KCPE and attained 193 marks. He did not proceed to Secondary school citing lack of school fees. Since then, he begun working in mining where he states that he has been mining for precious stones within his locality. The accused states that he is married with one child by the name Stacey Jebungei who is the victim in this matter and admits being alcoholic.
4. The victim’s mother who is the accused’s wife could not be found for interview as she moved back to her parent’s home after the incident.
5. The community sentiments were given by the local administration and the village elder. They described the accused as a drunkard who is irresponsible and they doubt if he will attend court as required if admitted to bond due to heavy drinking. Further, the local administration indicated that the villagers are still angry towards the accused for killing an innocent child. The local administration and the village propose that accused remain in custody during trial.



6. That based on the above findings, while the officer finds the family of the accused are praying that the accused be admitted on bond, he considers the fact that both the local administration and the family of the accused doubt the ability of the accused person to appear before court when required to do so. He therefore finds the accused is considered a flight risk and recommend that should the court in its own discretion admit the accused on bond, then he should be admitted to stringent bond terms that will ensure his appearance in court.

### **Determination**

7. 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.
8. 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. For example, accused persons should not be subject to the same rules and regulations as convicts.
9. 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.
10. The accused person faces the grave charge of murder. He is however still deemed innocent until proven guilty. Under Article 49 (1) (h) of the *Constitution*, he is entitled to bail pending trial unless there are compelling circumstances. See *Muraguri v Republic* [1989] KLR 181, *Republic v Elias Kipkemoi*, Eldoret High Court Criminal Case 42 of 2014 (unreported).
11. 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.
12. Upon considering sentiments by the local administration and accused's family, I am of the view that there are compelling reasons to deny accused bond. The accused may however review his bond application if circumstances change.



13. **Final Orders: -**

1. Accused denied bond.
2. Accused is at liberty to renew bond at a later stage of trial.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KABARNET THIS 24<sup>TH</sup> DAY OF SEPTEMBER 2024.**

.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:

Elvis – Court Assistant.

Accused present.

Ms. Ratemo for State.

