



REPUBLIC OF KENYA



**Republic v Chesire (Criminal Case E006 of 2023)  
[2023] KEHC 18516 (KLR) (15 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18516 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE E006 OF 2023  
RB NGETICH, J  
JUNE 15, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**KIPKORIR CHESIRE ..... ACCUSED**

**RULING**

1. The accused Kipkorir Chesire has been charged with the offence of Murder Contrary to section 203 as read with section 204 of the *Penal Code*. Particulars of the offence are that on April 4, 2023 at Kapingari village, Morop sublocation Ewalel chapchap in Baringo central subcounty within Baringo county accused murdered Victor Kipyegon Kilel.
2. On the April 20, 2023, the charge and its full particulars were read over and explained to the accused person who denied the charge and a plea of not guilty was entered.
3. The state counsel informed the court that the state is not opposed to the accused being released on bond. The court made an order for a pre-bail report to be prepared by the probation to assist the court in setting bond terms. Pre-bail report for the accused was filed on May 31, 2023.
4. From the pre-bail report, the local administration have no objection to accused being released on bond but are of the view that the family should look for alternative place of aboard for the accused during trial.
5. From the report, the victim's and accused's family are close relatives. The family members are still pained and are of the view that release of accused at this stage will ignite animosity between parents of accused and the deceased. They are of the view that accused be granted bond at later stage to allow the family look for alternative place of residence for accused.
6. The family of the accused are ready to stand surety for accused who is aged 17 years old class 7 drop out.



7. Bond pending trial is constitutional right under article 49(1)(h) of the Constitution which provides 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.”

8. The Bail and Bond Policy Guidelines Paragraph 4.9 state as follows: -

“In terms of substance, the primary factor considered by the courts in bail decision-making is whether the accused person will appear for trial if granted bail. A particular challenge the courts face since the promulgation of the Constitution of 2010 is determining the existence of compelling reasons for denying an accused person bail, particularly in serious offences.”

9. Further the Bond and Bail Policy Guidelines provide for the following non-exhaustive factors for consideration in bail applications:

- (a) The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.
- (b) The strength of the prosecution case.
- (c) The character and antecedents of the accused person.
- (d) The failure of the accused person to observe bail or bond terms.
- (e) The likelihood of interfering with witnesses.
- (f) The need to protect the victim or victims of the crime.
- (g) The relationship between the accused person and the potential witnesses.
- (h) The best interest of child offenders.
- (i) The accused person is a flight risk.
- (j) Whether the accused person is gainfully employed.
- (k) Public order, peace and security.
- (l) Protection of the accused persons.

10. I have considered the age of the accused, views by family of accused and victim; and the local administration. The family have not indicated alternative place of abode for accused if released on bond. From the pre-bail report, it may not be safe for the accused to return back to his home at this stage of trial when victim's family are still pained by the loss of their loved one and there is danger of possibility of revenge or animosity towards accused. From the forgoing, I find that there are compelling reasons to deny accused bond at this stage of trial but is at liberty to reapply at a later date.

### **Final Orders**

1. I decline to release accused on bond
2. Accused may renew application for bond when circumstances change

**RULING** delivered, dated and signed in Open Court at **Kabarnet**



**This 15<sup>th</sup> Day of June 2023**

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

Mr. Kemboi - Court Assistant.

Mr. Abwajo - Counsel for State.

Accused – Present.

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