



**Republic v Kamario & another (Criminal Case E007 of 2023)
[2023] KEHC 18906 (KLR) (15 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18906 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE E007 OF 2023
RB NGETICH, J
JUNE 15, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

TITIKA KAMARIO 1ST ACCUSED

CHEPOKAPEL KAMARIO 2ND ACCUSED

RULING

1. Titika Kamario and Chepokapel Kamario have 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 30th day of March 2023 at Naitai village, Orus Sub-Location Orus location in Tiaty East sub county within Baringo county accused persons jointly murdered Chemirkey Ngarialima.
2. On the 20th April 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 persons 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 reports for the accused persons were filed on 31st May 2023.
4. From the pre-bail reports, the local administration is totally opposed to accused persons being released on bond and if by any chance they are released on bond, they should seek alternative place of abode for the sake of their own security. They also indicate that they are flight risk and chances of jumping bail are high.
5. Likewise, the family of the victim are opposed to accused persons being granted bond and they also cited security of the accused persons as the victim’s clansmen may take revenge.



6. 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.”

7. 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.

8. I have considered views by family of the victim and the local administration. They have indicated that the victim’s clan may revenge if accused persons go back to the community and also indicate that there is likelihood of the accused persons jumping bail. No alternate place of abode has been proposed by accused person’s family as proposed by the Local Administration. In my view it will not be safe to release accused persons on bond at this stage of trial but they can renew bond application if circumstances change.

9. Final Orders

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

RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KABARNET THIS 15TH DAY OF JUNE 2023

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RACHEL NGETICH

JUDGE

In the presence of:

Mr. Kemboi - Court Assistant.



Mr. Abwajo - Counsel for State.

Accused1 – Present.

Accused 2 – Present.

No appearance for accused's.

