



**Republic v Rono (Criminal Case E017 of 2024)
[2024] KEHC 12506 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12506 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E017 OF 2024
JK SERGON, J
OCTOBER 17, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

PHILEMON KIPKIRUI RONO ACCUSED

RULING

1. Philemon Kipkirui Rono 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 2nd day of July, 2024 at Kiptugumo Area in Soin Sigowet Sub-County within Kericho County, the Accused murdered Joseph Kiprono Malel. 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 opposed the application for bail and stated that there are compelling reasons to deny the Accused bail. The Prosecutor further stated that the accused has a previous conviction in High Court Criminal Case No. 12 of 2015, whereby he was sentenced to a probation order and he had violated the terms of the probation order.
5. The County Probation Officer was directed to file a pre bail report in respect to the accused.
6. The county probation officer filed a pre bail report, in the said report, it is noted that the accused relies on menial jobs to fend for himself. It is further noted that the accused has been previously charged and convicted vide High Court Criminal Case No. 12 of 2015. The accused was convicted, sentenced and the court placed him on three years' probation order sentence. The accused has a history of breaching



bond terms and the court had on a previous occasion canceled bond, on assessment, the probation officer deemed him as a flight risk.

7. The accused has loose relational ties with family members and the community. The probation officer noted that the current home environment is hostile, the family and community members are still bitter with him having been accused of committing a murder involving his own father. The probation officer noted that the gravity of the offence therefore exposes the accused to hostility and attacks from the family and the community, thereby jeopardizing his safety in the community. Whereas the accused prays to be granted bond however his family members are reluctant to provide information regarding the same. The accused's family members are bitter towards the accused and therefore opposed to his release on bond.
8. The local administrator stated that the accused has a criminal record in the community and that the home environment is hostile and therefore the release of the accused on bond may compromise his safety.
9. The probation officer stated that the social inquiry revealed that the family and community members were opposed to his release on bond. The family and community members were not ready or willing to stand surety to secure his release. The probation officer noted that there were compelling reasons including but limited to a hostile home environment, the fact that the accused had a criminal record and had previously violated bond terms, the probation officer therefore found him unsuitable for release for bond.
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." 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."
14. In the instant matter, I have taken cognizance of the fact that the prosecution was opposed to the application for bail and that the pre bail report is unfavorable. I find that there are compelling reasons not to admit the accused to bail. I hereby dismiss the application for bail, the applicant to remain in custody during trial. The applicant may renew the application for bail after the lapse of four (4) months.

DATED, SIGNED AND DELIVERED THIS 17TH DAY OF OCTOBER, 2024.



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J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

Prosecutor – Musyoki

Accused – Present in Person

Miss Sang for the Accused

