



**Republic v Ngetich (Criminal Case 9 of 2020)  
[2024] KEHC 13768 (KLR) (4 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13768 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 9 OF 2020  
RL KORIR, J  
NOVEMBER 4, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**EVANS KIPYEGON NGETICH ..... ACCUSED**

**RULING**

1. The Accused 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 22nd April 2020 at Raiya Village of Bomet Township Sub-Location within Bomet County, he murdered Risper Chelangat.
2. The Accused took plea on 30th June 2020 before this court (Ongeri J.) and pleaded not guilty. His trial is pending.
3. This is the third attempt at securing bail by the Accused. In a Ruling dated 28th October 2020, this court denied the Accused bail citing concerns for his safety amid the hostilities on the ground and tension between the respective families of the Accused and the deceased who was his wife. The court took particular note of the Probation Officer’s Report that the Accused’s homestead had been razed by the irate villagers after the killing of the deceased.
4. The Accused’s counsel then sought review of the aforementioned Bail Ruling and this court through a Ruling dated 10th February 2022 declined to review its Ruling as there were no changed circumstances. According to the social inquiry report the hostility on the ground was still palpable and the Accused’s safety was still at risk.
5. On 30th November 2022, the Accused yet again applied for a review of this court’s Bond Ruling dated 10th February 2022 stating that the Accused’s family had reached out to the victim’s family and that the Accused’s safety was no longer threatened.



6. Mr. Kipngetich, learned counsel for the Accused submitted that the Probation Officer had recommended the Accused be released on bond. On the other hand, Mr. Njeru, the learned Prosecution counsel submitted that he was not opposed to the Application but asked this court to consider the views of the Probation Officer and the circumstances of the case.
7. A fresh pre-bail report was filed on 18th August 2024 as directed by the court. The Report stated that the victim's family were still pained by their loss of their daughter who was the Accused's wife. That the Accused's family had not owned up to the commission of the offence and thus there was an impasse in the reconciliation process. According to the probation officer, the victim's family were opposed to the Accused's release on bail.
8. The Report further stated that the local administration was apprehensive about the release of the Accused on bail. That an irate mob burnt down the Accused's home after the commission of the offence and they feared that the same mob might resurface if the Accused was released. The Report further stated that the family of the Accused would face challenges in raising bail if it was granted.
9. The Probation Officer however made an assessment that the ground was no longer hostile and that the Accused's mother would find an alternative place of abode for the Accused once he is released.
10. I have critically looked at the Probation Report and it is my view that the Probation Officer's recommendation contradicted the views of the victim's family and the local administration. The victim's family stated that the Accused's family had not owned up to their kin's commission of the offence and this hampered any chance of reconciliation. The local administration was also still adamant that it feared for the Accused's safety upon release. It therefore appears to me that the ground was still hostile and Accused's safety was still under threat.
11. The Probation Officer however stated that the Accused's mother would find the Accused a different abode, at his uncle's home in Kedowa away from the victim's family to minimize chances of conflict over the offence.
12. I have considered the application. Needless to state, it was the duty of the prosecution to bring to the attention of the court the existence of any compelling reason that would warrant the court to deny the Accused bail. As stated earlier, the learned Prosecution Counsel submitted that the Republic did not oppose the application but requested the court to consider the findings in the Probation Officer's Report.
13. The Probation Officer's report painted a grim picture of the Accused's home circumstances which show that he was a product of a dysfunctional family which also engaged in unlawful activities. That the said family had not taken any responsibility toward traditional reconciliation and that the Accused's family was unlikely to raise any surety.
14. With respect to hostility on the ground, I observe that the offence was allegedly committed on 22nd April 2020. While it was true from the initial Probation Officer's Report that the community razed down the Accused's house in anger, it is expected that the emotions have changed with the passage of time and that the situation on the ground was calmer. This court also is cognizant that the Accused being well aware of the situation and hostility on the ground has nonetheless applied to be released on bond thrice notwithstanding the risks he faced.
15. It must however be emphasized that the duty of the National Police Service is to protect all citizens including the Accused. They must ensure citizens do not take the law into their hands. Further, the issue whether or not the Accused's relatives were willing to stand surety for him will only be



evident after he is granted bond. The court therefore cannot decline to grant bond on account of the unwillingness of the relatives to stand surety.

16. In the circumstances, I find no compelling reason not to admit the Accused to bond. Considering his antecedents, he must meet the following stringent conditions: -

- i. He shall not provoke further community disharmony by dwelling in the same neighbourhood with the victims
- ii. He shall not in any way interfere with prosecution witnesses whether directly or indirectly.
- iii. He shall provide Two (2) sureties of Kshs. 300,000 each.
- iv. He shall attend court whenever required.

Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 4<sup>TH</sup> DAY OF NOVEMBER, 2024.**

.....

**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the presence of the Accused, Mr. Njeru for the State, Mr. Leteipa holding brief Mr. Kipngetich for the Accused and Siele (Court Assistant).

