

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CRIMINAL CASE NO.63 OF 2020

REPUBLIC.....RESPONDENT

VERSUS

ELIAS KIPCHIRCHIR KIMAIYO.....ACCUSED

RULING ON BOND/BAIL

1. The accused herein **KIPCHIRICHIR KIMAIYO ELIAS** was charged with the murder of Diusmus Kiprotich Kigen. He pleaded not guilty.

2. By Notice of Motion herein dated 15/11/2021 the accused now seeks to be placed on bond/bail pending hearing and determination of this criminal murder trial.

3. The accused's case is that he:

He was arrested and charged with murder on the 26th October 2021. He has been in custody for almost a year now and no further arrests have been made regarding the other alleged suspects so it is unconstitutional for the prosecution to continue holding him in custody. The accused states that he does not hold any Kenyan passport neither has he travelled outside nor even traversed several other counties for whatever reason; that he shall comply with the Court's directives regarding his release. He prays to this Court to commit him to reasonable bail and bond terms and undertake to present himself to Court as and when he is required. He also undertakes not to compromise the witnesses and to live in a different environment from where the witnesses/suspects reside and not to communicate/discuss the matter.

4. The Court had directed that a pre-bail report be filed. This was done on 10/2/2021. The report states that there is tension in the village where the accused comes from especially between the family of the accused and that of the deceased. The report discourages the release of the accused person on bond as of that date.

5. In my view, however, the report was made in February 2021. It is now December 2021 and this Court is entitled to revise the views expressed in the pre-bail report, especially against the constitutional entitlement to bond/bail.

6. Against this constitutional backdrop, it is my view that the accused is entitled to bond/bail which I grant in the following terms:

i. The accused is admitted to bond of Kshs.300,000/- with one surety of a similar amount.

ii. Alternatively, the accused shall file a cash bail of Kshs.200,000/-.

SIGNED AND DATED IN ELDORET THIS 7TH DAY OF DECEMBER, 2021

E. K. OGOLA

JUDGE

DATED AND DELIVERED IN ELDORET THIS 8TH DAY OF DECEMBER, 2021

R. NYAKUNDI

JUDGE