



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. 12 OF 2018

REPUBLIC.....DPP

VERSUS

JOSEPH KIPYEGON LANGAT.....ACCUSED

RULING ON BAIL

1. The Accused is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code Cap 63 Laws of Kenya. The particulars of the offence are that on the 30th day of May, 2018 at Chepkosa location, Chepalungu Sub- County within Bomet County murdered John Kipsang Cheruiyot.

2. The Accused took plea on 12th July, 2018 before Muya J and denied the charge. His trial commenced on 25th September, 2018 and so far 7 witnesses have testified for the prosecution. The accused was initially denied bond as the probation report showed that the local community was hostile to his release and that there was a likelihood of further violence if he was released. Subsequently, on 4th December, 2019, defence counsel renewed the application for bond. The court (Dulu J) directed that another pre – bail report be filed.

3. When the matter came up before me on 28th October, 2020, defence counsel Mr. Kenduiwo renewed the application for bond. Counsel submitted that a current probation report in respect of the accused had been filed. He submitted that the report was favourable and prayed that the accused be granted reasonable bond terms.

4. In response, Mr. Mureithi for the Prosecution submitted that the prosecution would have no objection if the report was favourable to the accused. He however left the matter to the discretion of the court.

5. I have considered the application, the respective submissions of the parties and the pre bail report. Article 49 (1)(h) of the Constitution grants an arrested or accused person the right to be released on bond or bail pending charge or trial, unless there are compelling reasons. It is the duty of the state to bring any compelling reasons to the attention of the court. See **R. Vs Danson Mgunya & Anor, 2016 eKLR.**

6. In the present case, the state was initially cautious about the safety of the Accused if released. It is however clear from the probation report that the circumstances on the ground have changed and that the community was no longer hostile. Further, I observe that the offence was committed on 30th May, 2018 and that violent emotions must have cooled with the passage of time. There is no reason therefore to continue denying the Applicant bail.

7. The Accused is granted bail on the following conditions:-

- i. He shall post cash bail of Kshs.500,000/= with one surety of similar amount.
- ii. In the alternative, the accused shall execute a personal bond of Kshs.500,000/= and provide 2 sureties of Kshs.500,000/= each.
- iii. He shall not interfere with witnesses directly or indirectly.
- iv. He shall attend court whenever required and shall not impede the trial in any way

8. Orders accordingly.

Sentence delivered, dated and signed this 3rd day of November, 2020.

.....

R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Defence Counsel Mr Kenduiwo, Mr. Mureithi for the DPP, and Kiprotich (Court Assistant).