



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BOMET**

**CRIMINAL CASE NO. 25 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**ROBERT KIPLANGAT KIRUI.....ACCUSED**

**RULING**

1. Before me is an application brought by way of Notice of Motion dated 28<sup>th</sup> November, 2019 and filed on 2<sup>nd</sup> December 2019 for bail pending trial filed through counsel M/s P. Sang and Company Advocates on behalf of the accused.

2. The application was filed with a supporting affidavit sworn on 28<sup>th</sup> November, 2019 by Rogers Mugumya Advocate.

3. Mr. Mugumya for the accused urged the court on 2<sup>nd</sup> December, 2019 that the application be allowed. Mr. Murithi for the Republic did not oppose the application, as the pre-trial report filed by the Probation Officer Bomet was favourable to the request for bail, and left the matter to the court's discretion.

4. The accused stands charged with murder Contrary to Section 203 and read with Section 204 of the Penal Code and two (2) prosecution witnesses have already testified. I have perused the pre-bail report dated 2<sup>nd</sup> December 2019 signed and filed by Joel Nyaribo Probation Officer Bomet which recommended that the accused may be released on bail.

5. Every arrested person in Kenya has a right to be released on bail irrespective of the seriousness of the offence unless there are compelling reasons to deny him or her bail/bond. This position is clearly spelt out under Article 49(1) (h) of the Constitution of Kenya 2010, which states as follows:—

***49(1) An arrested person has the right .***

***(h) to be released on bond or bail, on reasonable conditions pending a charge or trial, unless there are compelling reasons not be released.***

6. The Republic through Mr. Murithi has not opposed bail, which means that that they do not have compelling reasons to support denial of bail to the accused. I myself do not see any compelling reasons for denial of bail. I this allow the application and order as follows:-

**(a) The accused will be released on signing his own bond of Kshs.300,000/= with one surety of similar amount.**

**(b) In the alternative he will be released on paying cash bail of Kshs.200,000/=.**

**(c) He will not interfere with prosecution witnesses.**

**(d) He will attend every mention of the case and hearing until the case is finalized.**

Dated at Bomet this 5<sup>th</sup> December 2019.

**GEORGE DULU**

**JUDGE**