



**Koech & 2 others v Republic (Criminal Case E008 & E009 of 2025  
(Consolidated)) [2025] KEHC 13678 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13678 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE E008 & E009 OF 2025 (CONSOLIDATED)**

**JK SERGON, J**

**OCTOBER 2, 2025**

**BETWEEN**

**NICHOLAS KIPKEMOI KOECH ..... 1<sup>ST</sup> APPLICANT**

**JOHN KIPKEMOI TUWEI ..... 2<sup>ND</sup> APPLICANT**

**FRANKLINE KIPKOECH LANGAT ..... 3<sup>RD</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Nicholas Kipkemoi Koech, John Kipkemoi Tuwei and Frankline Kipkoech Langat the accused and applicants herein are 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 19th day of February, 2025 at Chilchila Location in Kipkelion Sub County, within Kericho County, jointly with others not before court murdered Emmanuel Kipkoech Kirui. The Accused pleaded not guilty to the offence.
3. The Accused through their respective Advocates on record, applied to this Court to be released on reasonable bail/ bond terms.
4. Miss Maundu, Learned Senior Assistant Director of Public Prosecutions vehemently opposed the application stating that the 1st accused committed the instant offence while he was out on bond for another murder case and that the prosecution were apprehensive that the accused would interfere with witnesses.
5. The Kericho County Probation Officer was directed to file Pre-bail Probation Reports in respect to each accused to enable this Court consider and determine the application for bail/bond pending trial.



6. The county probation officer filed a pre bail report, in respect of Nicholas Kipkemoi Koech, the 1st accused, it is noted that he is a flight risk and is facing another murder charge in Kericho High Court Criminal Case No. E020 of 2020 and he was out on bond and therefore the subsequent arrest and arraignment for the instant offence was in breach of bond terms.
7. The 1<sup>st</sup> accused maintains that he will adhere to the bond terms and attend court without fail. The family of the accused, specifically the mother of the accused, fled her homestead after their house was torched and is reported to be looking for a suitable surety, however, the family of the victim is opposed to his release on bond as they are bitter and angry and secondary victims are afraid and fearful for their safety in the event the accused is released on bond.
8. The accused is well known to the local administrator who was opposed to the accused's release on bond as he is facing another murder charge and that his safety may be compromised, as the community is still bitter and angry against the accused, after he committed the instant offence.
9. The community was enraged thus proceeding to torch the Accused's house and have further swore to lynch the Accused.
10. The local administrator reported that the anger is yet to subside and therefore his release on bond would be ill advised in the circumstances. The probation officer therefore urged this court to treat the above mentioned factors as compelling reasons warranting this court to withhold the release of the accused on bond until this case is heard and determined.
11. The county probation officer filed a pre bail report, in respect of John Kipkemoi Tuwei, the 2nd accused, it is noted that he has a previous criminal record having been convicted for the offence of handling stolen property and sentenced to three years in custody.
12. The accused urged this court to release him on favourable bond terms stating that he hails from a humble background, he maintains that he will adhere to the bond terms and attend court without fail.
13. The family of the victim is opposed to his release on bond stating that he might interfere with witnesses and subvert the course of justice. The accused is not well known by the local administration and therefore the local administrator deemed him a flight risk, since his whereabouts or place of abode are not well known to the community members or local administrator.
14. The local administrator reported that the community members are still bitter with him and therefore his safety may be compromised. The probation officer therefore urged this court to treat the above mentioned factors as compelling reasons warranting this court to withhold the release of the accused on bond until this case is heard and determined.
15. The county probation officer filed a pre bail report, in respect of Frankline Kipkoech Langat, the 3rd accused, it is noted that he is not a flight risk and that the home environment is conducive for his release on bond. The accused maintains that he will adhere to the bond terms and attend court without fail.
16. The family of the accused are looking for a suitable surety considering their humble economic background, however, the family of the victim are opposed to his release on bond, they are apprehensive that he might interfere with witnesses.
17. The accused is well known to the local administrator, who is not opposed to his release on bond as he relates well with the community and does not have a history of criminality within the village. The probation officer stated that he found no compelling reason to withhold the release of the accused on bond.



18. This court takes cognisance of an affidavit sworn by Corporal Edwin Mukholi on 14.3.2025 opposing bond in respect to Nicholas Kipkemoi Koech and John Kipkemoi Tuwei stating that the accused had previous criminal records, would interfere with witnesses if released on bond and that the community is bitter and still hostile having torched their houses and threatened to lynch the accused.
19. 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.
20. 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.
21. 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.
22. In Republic v John Kahindi 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*."
23. In the instant matter, I have taken cognizance of the fact that the victim's counsel and prosecution vehemently opposed the application for bond citing hostility on the ground and interference with state witnesses. This court has considered the contents of the pre bail reports filed by the probation officer. I therefore find that there are compelling reasons not to admit the accused to bail.
24. I hereby order that the Accused namely:- Nicholas Kipkemoi Koech, John Kipkemoi Tuwei and Frankline Kipkoech Langat remain in custody pending hearing and determination of this case.

**DATED, SIGNED AND DELIVERED THIS 2<sup>ND</sup> DAY OF OCTOBER, 2025.**

.....  
**J.K. SERGON**

**JUDGE**

In the Presence of:

C/Assistant – Rutoh

Prosecutor – Maundu

Accused – Present in Person

Nyadimo for 1<sup>st</sup> & 2<sup>nd</sup> Accused

Nyadimo holding brief for Chelangat for the 3<sup>rd</sup> Accused

Mutai watching brief for the family

