



**Republic v Fano (Criminal Case E011 of 2023)  
[2025] KEHC 15544 (KLR) (29 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 15544 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE E011 OF 2023  
RB NGETICH, J  
OCTOBER 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**FANUEL KANDIE ALIAS FANO ..... ACCUSED**

**SENTENCE**

1. The accused Fanuel Kandie Alias Fano 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 were that on the 24<sup>th</sup> day of September 2022 at K2 Choma Base Koriema sublocation, Marigat subcounty within Baringo county accused murdered Benard Kiprono Sangalias Ainamoi Superstar.
2. The accused denied the charge and on 24<sup>th</sup> July 2025, this court found the accused guilty and convicted him of the offence of murder contrary to section 203 as read with 204 of the penal code. Upon conviction, the prosecution informed the court that accused was a first offender.

**Mitigation**

3. The prosecution counsel Ms. Kogo counsel mitigated on his behalf. She submitted that the accused is remorseful and regrets the events that led to the death of the deceased. She urged this court to be lenient to the accused as he is a young father and a husband who is a sole breadwinner of his family and sole caregiver to his ailing mother. She urged this court to consider a non-custodial sentence as he is a law-abiding citizen and the events of 24/9/2022 which led to death of deceased, he regrets to date.

**Pre-sentence Report**

4. From the report, the accused is 28 years old with a young family. He denied the offence saying that on the material day, he did not engage in any fight neither did he beat the deceased but pleads for leniency saying that he has a young family.



5. According to the family, the victim was 17 years old who dropped out of school in class 3 and later discovered that he had a talent in music and decided to explore the talent. The father and uncle of the deceased are saddened by the loss and state that they believe his career in music would have grown and he would have changed economic status of his family. They said they leave it to court to impose sentence it deems fit.
6. The local administration in Marigat described the accused as a troublesome and arrogant person in the community when under the influence of alcohol. He said the accused worked as security bouncer during music events in marigat and would mingle with Kalenjin musicians who went to perform in Marigat. Local administrator from his home Kipkaech said they could not comment about accused as he spent most of his time in marigat while his wife stays in Kipkaech.

### **Determination**

7. Under section 204 of the penal code, the penalty for murder is death. However, the supreme court in the case of Francis Karioko Muruatetu & Another v Republic [2017] eKLR declared the mandatory nature of death sentence unconstitutional. The court therefore has discretion to impose death sentence or any other lesser sentence depending on circumstances of each case.
8. From the presentence report, the local administrator from Marigat where accused spent most of his time said that he knew the accused as an arrogant and troublesome person when drunk. No efforts were made to reconcile or compensate the family of the victim who are saddened by the loss of their son who they had high hopes of changing the economic status of the family with rise in his music career. In view of the sentiments given as captured above and also taking into consideration mitigation of accused through his counsel and the fact that he is a first offender, I am inclined to impose a non-custodial sentence of 20 years.
9. Final Orders:-
  - a. Accused to serve 20 years imprisonment.
  - b. Right of appeal 14 days.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 29<sup>TH</sup> DAY OF OCTOBER, 2025.**

.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:-

Ms. Bartilol for State.

Ms. Kogo for accused.

Accused present.

CA, Elvis/Momanyi.

