



**Rono & 3 others v Republic (Criminal Case E010 of 2025)
[2025] KEHC 18853 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18853 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE E010 OF 2025
E OMINDE, J
DECEMBER 19, 2025**

BETWEEN

**DENNIS KIPTOO RONO 1ST ACCUSED
ELVIS KIPTANUI 2ND ACCUSED
ABIUD BARKUTWA 3RD ACCUSED
CORNELIUS KIPLIMO PETER 4TH ACCUSED**

AND

REPUBLIC RESPONDENT

RULING

1. The Applicants approached this court vide a Notice of Motion dated 26th September 2025 seeking the following orders;
 1. Spent
 2. That this Honourable Court may be pleased to grant bond to the Accused persons pending the hearing and determination of this case, subject to such conditions as the Court may deem fit to impose.
 3. That this Honourable Court may be pleased to review the current date set for ruling on bond Application and schedule a new date that is earlier than the originally set date pending the hearing and determination of this case.
2. The application is expressed to be brought under Sections 123A, and 125 of the Criminal Procedure Code (CPC), Article 49(1) (h), of *the Constitution*, and all other enabling Provisions of the Law. The Application is premised on the grounds on the face of it and the averments of the 4th accused person, Cornelius Kiplimo Keter.



3. I have considered all the depositions made in support of and against the application for the release of the accused persons on bond. I have also taken into consideration the depositions made by all the proposed sureties on behalf of each of the accused persons and without going into much ado about all the issues raised, it suffices to say that the law on bond as provided by *the Constitution*, Statute and Case Law as well as the Judiciary Policy on Bail and Bond is as summarised hereunder;
4. Article 49(1)(h) of *the Constitution* provides that every accused 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”.
5. Section 123 of the Criminal Procedure Code provides as follows;
 - (1) When a person, other than a person accused of murder, treason, robbery with violence, attempted robbery with violence and any related offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a court, and is prepared at any time while in the custody of that officer or at any stage of the proceedings before that court to give bail, that person may be admitted to bail:

Provided that the officer or court may, instead of taking bail from the person, release him on his executing a bond without sureties for his appearance as provided hereafter in this Part.
 - (2) The amount of bail shall be fixed with due regard to the circumstances of the case, and shall not be excessive.
10. Section 123A of the Criminal Procedure Code provides as follows;
 - (1) Subject to Article 49(1)(h) of *the Constitution* and notwithstanding section 123, in making a decision on bail and bond, the Court shall have regard to all the relevant circumstances and in particular—
 - (a) the nature or seriousness of the offence;
 - (b) the character, antecedents, associations and community ties of the accused person;
 - (c) the defendant's record in respect of the fulfillment of obligations under previous grants of bail; and;
 - (d) the strength of the evidence of his having committed the offence;
 - (2) A person who is arrested or charged with any offence shall be granted bail unless the court is satisfied that the person
 - (a) has previously been granted bail and has failed to surrender to custody and that if released on bail (whether or not subject to conditions) it is likely that he would fail to surrender to custody;
 - (b) should be kept in custody for his own protection.
11. The Court in considering grant of bail or bond is bound to consider the following factors as prescribed by the Bond and Bail Guidelines 2015
 - (a) The nature of the charge or offence and the seriousness of the punishment to be meted if the accused person is found guilty.
 - (b) The strength of the prosecution case.



- (c) The character and antecedents of the accused person.
 - (d) The failure of the accused person to observe bail or bond terms.
 - (e) The likelihood of interfering with witnesses.
 - (f) The need to protect the victim or victims of the crime.
 - (g) The relationship between the accused person and the potential witnesses.
 - (h) The best interest of child offenders.
 - (i) The accused person is a flight risk.
 - (j) Whether the accused person is gainfully employed.
 - (k) Public order, peace and security.
 - (l) Protection of the accused persons.
12. The Bail and Bond Policy Guidelines at paragraph 3.1 (d) underpins the right to reasonable bail and bond terms as follows: -

Bail or bond amounts and conditions shall be reasonable, given the importance of the right to liberty and the presumption of innocence. This means that bail or bond amounts and conditions shall be no more than is necessary to guarantee the appearance of an accused person for trial. Accordingly, bail or bond terms should not be excessive, that is, they should not be far greater than is necessary to guarantee that the accused person will appear for his or her trial.

Conversely, bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Secondly, bail or bond conditions should be appropriate to the offence committed and take into account the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by reference to the facts and circumstances prevailing in each case.

13. The Court of Appeal, in the case of Republic v Nuseiba Mohammed Haji Osman [2018] eKLR stated as follows regarding compelling reasons:

We stress the key words “unless there are compelling reasons” and adopt the definition of what amounts to compelling reasons in the High court decision of R V Joktan Mayende & 3 Others, Criminal Case 55 of 2009 as follows:

“...And accordingly, 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*.”

14. The Court of Appeal in Michael Juma Oyamo & Another V Republic, [2019] eKLR gave guidance on what would amount to compelling reasons to warrant denial of bond pending trial. The court stated 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 standards set by the Constitution. It is trite that the duty to demonstrate existence of compelling reasons lies squarely on the prosecution in cases where the state is opposed to the admission of an accused person to bond or bail pending trial. To discharge this burden, the prosecution must support with evidence the reasons advanced in opposition to grant of bond or if what is relied on is the commonly cited reason which is what has been advanced in this case that if released, the accused is likely to interfere with witnesses or that his safety may be compromised, the prosecution must place before the court material to demonstrate that their fear is well founded and justified. Mere allegations cannot suffice.”

15. All considered and having applied my mind to the law as herein above summarised, I am satisfied that the Application for the release of the accused persons on bond has merit and the same is allowed. In this regard, each of the accused persons is now hereby released on a personal bond of Ks. 500, 000/- with one surety of a similar amount.
16. Right of appeal 14 days.

READ DATED AND SIGNED AT ELDORET ON 19TH DECEMBER 2025

E. OMINDE

JUDGE

