

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KILGORIS**  
**HCCR CASE NO. E009 OF 2025**  
**(CORAM: HON. CHARLES KARIUKI – J)**

**REPUBLIC.....PROSECUTOR**

**-VERSUS-**

**SAITOTI KOINI..... ACCUSED**

**RULING**

1. The accused is charged with an offence of murder Contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 of the Laws of Kenya. He is alleged to have murdered Ali Noor Mohammed on the 25/04/2025 at Lolgorian Township in Transmara Sub-Country, Narok County.
2. He denied charge and matter went into pre-trial directions. The accused Advocate applied for court to grant accused Bond/Bail pending trial. The state opposed the same. The state relies on Affidavit by Investigating Officer sworn on 2/2/2026 by PC Robert Sang.
3. That the respondent was arrested on the 28<sup>th</sup> day of October, 2025 after police officers were informed of his hideout and rushed to rescue the suspect who was being lynched by the irate members of the public.
4. At the time of arrest, the suspect was duly informed of the reason of his arrest and was placed in lawful custody.
5. That the suspect is a flight risk and released on bail he might abscond due to the gravity of the matter, reference CR. 702/74/2025 and investigations revealed that the suspect place of abode is not well known and is believed to have relatives across the border and there is likelihood that he might abscond court if released on bail or bond.
6. There is a likelihood that the respondent might interference and is also a threat to the witnesses in this matter who are not from his community.
7. That I humbly give to this Honorable Court that it is a compelling reason to deny the applicant to be released on bail or bond until the evidence by the crucial witnesses has not testified.
8. The Probation Report dated 25/2/2026 made report and concluded.
9. **Conclusion:**
10. ***From the social investigation, it has been established that the accused hails from Ildorisho village in Transmara West Sub-County where he has a dwelling. He comes***

*from a socially stable, polygenic, low socioeconomic status, supportive, reputable family background. He has elementary education skills but suffers from structural unemployment, forcing him to wonder about as a casual worker. The accused enjoys sound mental health but suffers from weak spine occasioned by a past involvement in a road accident. Though he is not married, he had caregiving responsibility to his young child that he sired out of wedlock. He has no established history of absconding bond terms-based assessment of past adherence to bond/bail or license, predicted his risk of jumping bond to be low. He is also a teetotaler and hence negative effects of drugs and substance to bond/bail terms are predicted to be negligible. He prays that the Honorable Court may grant him affordable bond terms pledging to avail himself in court when needed to do so. His father is willing to stand surety of him using his land title deed. The outcomes of social enquiry from the community points to his stable community ties with the rest of the community. This reflects an affable social environment for his stay if allowed release on bond. Nonetheless, both the primary victim's family and the investigating officer oppose the release of the accused on bond describing him a flight risk and possible interference with witnesses.*

**11. Recommendation:**

12. Based in the aforementioned, the accused person is recommended to be released on bond terms subject to wisdom and discretion of the Honorable Court. It is further recommended that no contact orders be incorporated in bond terms to safeguard interference with the victim and witnesses. However, the recommendation is subject to wisdom of the Honorable Court.
13. The right to bail or bond is a constitutional right anchored in **Article 49(1)(h) of the Constitution of Kenya (2010)**, which mandates that an arrested person be released on reasonable conditions unless "compelling reasons" exist to deny it.
14. The burden lies heavily on the prosecution to prove, on a **balance of probabilities**, that such compelling reasons exist, using cogent evidence rather than mere speculation.
15. Below are the established, evidence-backed grounds (compelling reasons) for the denial of bail pending trial in Kenya, as derived from the Criminal Procedure Code (Section 123A), the Bail and Bond Policy Guidelines (2015), and judicial precedents:
16. 1. Risk of Absconding (Flight Risk); This is the primary consideration—whether the accused will appear for trial. **Proof required:** Evidence that the accused lacks a fixed abode, has no strong community ties, is a foreigner without extradition arrangements,

or possesses travel documents that make leaving the jurisdiction easy. **Example:** A 2025 High Court case denied bail because the suspect lacked a fixed home or employment and had contradictory, unverified family background.

17. . **Interference with Witnesses or Evidence;** If there is a real likelihood that the accused will tamper with evidence or intimidate witnesses. **Proof required:** Evidence of direct or indirect threats, communication with witnesses, or attempts to destroy evidence. **Example:** A 2025 ruling denied bond where evidence showed the accused had already intimidated the complainant. Another case was denied because the accused was likely to influence a young child witness.
18. **Protection of the Accused (Safety);** If releasing the accused would put their life in danger, often due to public anger or threatened mob justice. **Proof required:** A Pre-Bail Report or police affidavit showing a credible threat of lynching or intense community hostility. **Example:** A 2021 case denied bail when the accused had to be rescued by police from villagers armed with weapons.
19. **4 Risk of Committing Further Offences;** If the accused has a history of violent behavior or is likely to commit more crimes if released.
20. **Proof required:** Record of previous convictions or pending charges for similar offenses.
21. **Seriousness of the Offence and Severity of Penalty; While** serious charges (e.g., murder, robbery with violence, treason) alone are not automatic grounds for denial, they are a significant factor. **Proof required:** The potential for a death sentence or life imprisonment gives the accused a high temptation to abscond.
22. **Public Interest and National Security;** If the release of the accused would disrupt public order or endanger the nation. **Example:** Cases involving terrorism or high-level corruption that affects public confidence in the justice system.
23. **How Compelling Reasons are Proved (The Process);**To successfully deny bond, the prosecution must present: **Affidavits by Investigating Officers:** Detailing the specific risks.
24. **Pre-Bail Reports:** Probation officers' reports that evaluate the accused's ties to the community and potential risks.
25. **Witness Statements:** Showing threats or interference.
26. **No "Flimsy" Grounds:** The reasons must be real and cogent, not just assumptions. If the prosecution fails to prove these factors, the court must release the accused, although they can set stringent bond terms (e.g., depositing passports, reporting to police daily).

27. The upshot is that there are compelling grounds proven to the required to warrant denial of the constitutional right to bail/bond at this stage thus the court makes the orders that.

- i. The accused shall be released on bond of ksh 500,000 with 1 surety of equal amount and shall be reporting to the nearest DCI offices (the office handling the instant matter) every first week of the subsequent month with effect from 5/5/2026. He shall not contact any of the witnesses of the instant matter directly or indirectly until further orders of the court.**

**DATED AND DELIVERED AT NAROK VIA MICROSOFT TEAMS THIS  
13<sup>TH</sup> MARCH, 2026.**

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**CHARLES KARIUKI**

**JUDGE**