



**Republic v Kimutai (Criminal Case E008 of 2025)  
[2025] KEHC 13345 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13345 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDAMA RAVINE  
CRIMINAL CASE E008 OF 2025  
RB NGETICH, J  
SEPTEMBER 18, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**BRIAN KIMUTAI ..... ACCUSED**

**RULING**

1. The accused Brian Kimutai is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars are that on 26<sup>th</sup> May 2025, at Tachasis Village, Mumberes Sub-location, Koibatek Sub- County within Baringo County, he murdered Jonathan Rono.
2. On 18<sup>th</sup> June 2025, the charge was read to the accused and he pleaded not guilty. The prosecution, through Ms. Omari, opposed release on bond, relying on an affidavit sworn on the same date. The Court directed that a pre-bail report be filed.

**Pre-bail Report**

3. The accused was born in 2004 at Tachasis Village. He attended Soymining Primary School but dropped out in class 7 due to lack of interest and parental guidance. Before his arrest, he engaged in casual labour and subsistence farming while living at his parents’ homestead.
4. His family, of modest means, depends on a 7-acre farm registered in the name of his grandfather. They pray for his release on bond so he can assist with farming activities.
5. The victim’s family strongly opposes release, citing bitterness and fresh grief over the killing. They emphasized that they are close neighbours of the accused’s family.



6. The local administrator reported that on the date of the incident, members of the community were baying for the accused's blood and he had to intervene to escort him safely to the police station.
7. The probation officer noted that while the accused has the right to seek bond, his safety would be compromised if released. He recommended that bond consideration may be revisited at a later stage.

### **Submissions**

8. Ms. Barasa, counsel for the accused, argued that the prosecution had not demonstrated compelling reasons to deny bond. She cited Article 49 of *the Constitution* on the right to bail and bond, stressing that her client is presumed innocent under Article 50(2)(a). She contended that any concerns could be addressed through stringent bond terms such as regular reporting to a police station.
9. Ms. Omari, prosecution counsel, reiterated opposition to bond, pointing to the affidavit by the investigating officer. She emphasized that the accused hails from the same village as key witnesses and may intimidate them. Further, she raised concerns for the accused's safety, given threats from the community. She urged that the accused remain in custody until some witnesses testify and community tensions ease.

### **Determination**

10. Article 49(1)(h) of *the Constitution* provides that an accused person has the right to bail or bond unless there are compelling reasons to deny it. Section 123A of the Criminal Procedure Code and the Bail and Bond Policy Guidelines further require courts to weigh relevant factors, including the seriousness of the charge, safety of the accused, and likelihood of interference with witnesses.
11. The Court has considered the circumstances of this case, the nature of the charge, the submissions of counsel, and the pre-bail report. While the accused is entitled to presumption of innocence, the safety of the accused is a legitimate and compelling concern. Both the community and the victim's family remain hostile, and threats to his life were reported by the local administrator.
12. Releasing the accused at this stage would expose him to real danger. In addition, he resides in the same locality as key witnesses, raising legitimate fears of possible interference. From the foregoing, I find that there are compelling reasons to deny bond at this stage, particularly on grounds of the accused's personal security and the integrity of the trial process.
13. Final orders:-
  - a. The application for bond is therefore declined. The accused shall remain in custody.
  - b. Accused may reapply for bond at a later stage should circumstances change.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 18<sup>TH</sup> DAY OF SEPTEMBER, 2025.**

.....  
**RACHEL NGETICH**

**JUDGE**

In the presence of:

M/s Mburu for State.

M/s Barasa for accused.



Accused present.

CA, Elvis.

