



**Adeleye v Republic (Criminal Revision E082 of 2024)
[2024] KEHC 11567 (KLR) (30 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11567 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E082 OF 2024
DR KAVEDZA, J
SEPTEMBER 30, 2024**

BETWEEN

OLUSHOLA STEPHEN ADELEYE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant filed the notice of motion dated 15th July 2024 seeking revision of the orders of the trial magistrate denying him bond/bail. The application is supported by an affidavit sworn by the applicant of even date.
2. The averments made are that he was denied bail/bond by virtue of being a flight risk. He is a family man with a permanent fixed abode within the court's jurisdiction. He will not interfere with witnesses. He has sureties who are willing to ensure that he attends court. He urged the court to revise the decision of the trial court.
3. I have considered the application, the decision of the trial court and the applicable law.
4. Section 362 of the *Criminal Procedure Code* which has been invoked by the Applicant empowers this court to call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality, or propriety of any finding or order recorded and the regularity of any proceedings of any such subordinate court. The actions that this court can take when exercising its revisionary jurisdiction are provided for under Section 364 of the *Criminal Procedure Code*.



5. Be that as it may, this application is founded on bail or bond and therefore, article 49(1) (h) of the Constitution as well as Section 123 of the Criminal Procedure Code are relevant. Section 123 A specifically provides;

“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 in particular nature and seriousness of the offence, the character, antecedents, association, and community ties of the accused person the defendants record in respect of the fulfilment of obligations under previous grants of bail the strength of the chance of his having committed the offence.”

6. I have examined the record of the trial court. I note that the after the applicant was denied bail on 11th June 2024 on the grounds that he was a flight risk. It is trite law that the paramount principle to be considered in granting bail, is to secure the attendance of the accused during trial.

7. In this case, the trial court found that the applicant was a flight risk and his attendance could not be secured if released on bail/bond. Bail being discretionary, the trial court considered the circumstances of the case, and issued appropriate orders denying him bail.

8. The trial court was within its mandate to deny bail/bond if there were compelling reasons. In this case, the trial court found that the appellant being a flight risk was a compelling reason. Hence, I find nothing in the record of the lower court to show an illegality, irregularity, or impropriety to warrant review of the orders of the lower court.

9. The upshot of the above is that the application is dismissed for lacking in merit.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 30TH DAY OF SEPTEMBER 2024

D. KAVEDZA

JUDGE

