



Shah & another v Director of Criminal Investigations & 2 others (Miscellaneous Criminal Application E237 of 2023) [2023] KEHC 19212 (KLR) (Crim) (29 June 2023) (Ruling)

Neutral citation: [2023] KEHC 19212 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL APPLICATION E237 OF 2023
DR KAVEDZA, J
JUNE 29, 2023**

BETWEEN

NIKESH POPATLAL SHAH 1ST APPLICANT

BHAVINI NIKESH SHAH 2ND APPLICANT

AND

DIRECTOR OF CRIMINAL INVESTIGATIONS 1ST RESPONDENT

INSPECTOR GENERAL OF POLICE 2ND RESPONDENT

DIRECTOR OF PUBLIC PROSECUTION 3RD RESPONDENT

RULING

1. The applicants have filed a Notice of Motion Application under Articles 23, 24, 29, 49, 159, 165 and 258 of the *Constitution*. The application is filed under certificate of urgency supported by an affidavit dated June 27, 2023, sworn by the 1st applicant. The applicants seek orders, inter alia, for anticipatory bail or bail before arrest and/or charge on such terms as the court may deem fit.
2. Although the applicants have listed various articles of the Constitution, none of them specifically refer to anticipatory orders.
3. I do note that anticipatory bail is not specifically provided for under the Constitution. However, the Constitution mandates the government to protect and respect the rights of all Kenyans, this includes the right to liberty.
4. Having gone through the affidavit of the 1st applicant and the annexures, I am satisfied that the application is merited and issue the following orders:
 - a. That the application is certified as urgent.



- b. That the applicants are admitted to anticipatory bail of Kshs 100,000/= each pending hearing and determination of the application interpartes.
- c. That the applicants' advocates are directed to escort the applicants to the offices of the 1st respondent for questioning on July 3, 2023.
- d. That this order and the application to be served upon the respondents within 3 days.
- e. That upon service, the respondents shall have ten (10) days to file their responses and not later than July 17, 2023.
- f. That this matter shall be mentioned on July 21, 2023 for directions.

RULING DATED AND DELIVERED VIRTUALLY ON 29TH DAY OF JUNE, 2023.

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D. KAVEDZA

JUDGE

