



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL REVISION 94 OF 2017**

**FRIDAH KIENDE.....APPLICANT**

**Versus**

**REPUBLIC.....RESPONDENT**

**RULING**

**Revision**

[1] In a Motion dated 9<sup>th</sup> May 2017, the Applicant through her counsel applied for revision of orders by Hon. Indagwa made on 10<sup>th</sup> April 2017 in NKUBU CRIMINAL CASE NO 1259 OF 2016 which cancelled the bond granted to the Applicant herein.

[2] This application is made pursuant to section 362 of the Criminal Procedure Code (hereafter the CPC). The section provides as follows:-

**362. The High Court may 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, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.**

[3] For clarity in jurisprudence, supervisory jurisdiction of this court draws from article 165(6) and (7) of the Constitution- and it gives the court wide powers to *‘make any order or give direction it considers appropriate to ensure the fair administration of justice’*. Therefore, the phraseology in section 362 of the CPC- which is produced below- merely hemming of the said jurisdiction, to be;

***‘...for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.***

[4] This is a request to revise an order which cancelled the Applicant’s bond. Bail is a constitutional right under article 49(1) (h) of the Constitution, and will be granted to the accused except where there are compelling reasons. And the purpose of the bond is to ensure attendance in court by the accused. The accused in this case was late in court and so her bond was cancelled. The trial court made that decision after considering the explanations offered by the accused and which she could not agree with. The explanations offered may not have been convincing. More important, however, is that the accused attended court on the day of the hearing of the case save that she was late. No record of repeat lateness by the accused. Therefore, discretion thereto ought to have been guided by the constitutional command on fair administration of justice. Now therefore, drawing from the wide powers of the court in the Constitution to...*‘make any order or give direction it considers appropriate to ensure the fair administration of justice’*, the cancellation of the bond may have been quite overarching. Accordingly, I reinstate the bond as had been given by the trial court. The order by the trial magistrate cancelling the bond herein is accordingly reversed. The trial court’s file shall be transmitted forthwith to NKUBU Court for hearing. It is so ordered.

Dated, signed and delivered in open court at Meru this 17<sup>th</sup> day of May 2017

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**F. GIKONYO**

**JUDGE**