



**Asembo v Republic (Miscellaneous Criminal Application
E012 of 2025) [2025] KEHC 256 (KLR) (22 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 256 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E012 OF 2025**

**DR KAVEDZA, J
JANUARY 22, 2025**

BETWEEN

ROBERT AKUMU ASEMBO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant has filed the present notice of motion dated 20th January 2025 seeking revision of the orders of the trial court issued on 16th January 2025. He also prays for orders to arrest the judgement of the trial court scheduled to be delivered on 23rd January 2025.
2. The application is supported by an affidavit sworn by the applicant on the same date. The grounds for the application are as follows: The applicant is facing charges of obtaining money by false pretences, contrary to Section 313 of the *Penal Code*. During the trial, the applicant entered into an agreement with the complainant to repay the alleged money owed and has since made partial payments toward settling the same. The parties notified the court of this agreement in an effort to have the matter withdrawn. However, the trial court declined to recognise the agreement and directed that the matter proceed to conclusion. The applicant contends that he will suffer prejudice if judgment is delivered, resulting in his conviction.
3. Furthermore, the applicant asserts that the trial court has demonstrated bias on several occasions, including forfeiting his cash bail on two separate instances. The court is alleged to have disregarded the reasons advanced and supported by the medical report on record. Consequently, the applicant seeks a revision of the orders issued on 16th January 2025, forfeiting his cash bail and issuing a warrant of arrest against him.
4. I have considered the application, the affidavit in support and the applicable law.



5. From the pleadings before the court, it is evident that the applicant has not made any application before the trial court seeking the reinstatement of the cash bail or bond and the lifting of the warrant of arrest issued against him. In the absence of such an application and corresponding orders from the trial court, this prayer is deemed premature. The trial court is the first and appropriate forum for addressing such a request. Consequently, without exhausting the available remedies at the trial court, the prayer to revise the order issued on 16th January 2025 cannot be entertained at this stage. I therefore decline to issue any order at this juncture, since the trial court is yet to make a pronouncement on the matter. Parties are at liberty to move the court thereafter.
6. Secondly, the applicant seeks an order to arrest the impending judgment, contending that there is a significant risk of conviction and that he is likely to suffer irreparable harm to his reputation and well-being. Upon thorough consideration of the application, it is apparent that the applicant is attempting to advance his grounds of appeal under the guise of a motion to arrest judgment. The reasons provided to support the application are more appropriately addressed as grounds of appeal before an appellate court, should the applicant be convicted and dissatisfied with the trial court's decision.
7. Furthermore, the reasons advanced do not satisfy the legal requirements for arresting judgment under Section 324 of the *Criminal Procedure Code*. The applicant has failed to present specific and valid grounds warranting this court's intervention to arrest the impending judgment. Accordingly, it is my finding that the application lacks merit and is dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 22ND DAY OF JANUARY 2025

D. KAVEDZA

JUDGE

