



AKM v Director of Public Prosecutions & 2 others (Miscellaneous Criminal Application E030 of 2025) [2025] KEHC 1502 (KLR) (Crim) (14 February 2025) (Ruling)

Neutral citation: [2025] KEHC 1502 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL APPLICATION E030 OF 2025
DR KAVEDZA, J
FEBRUARY 14, 2025**

BETWEEN

AKM APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS 1ST RESPONDENT

INSPECTOR GENERAL OF POLICE 2ND RESPONDENT

DIRECTORATE OF CRIMINAL INVESTIGATIONS 3RD RESPONDENT

RULING

1. The applicant filed the notice of motion dated 14th February 2025 seeking orders of anticipatory bail. The application is supported by an affidavit sworn by the applicant of even date.
2. The applicant avers that his marriage has irretrievably broke down. In an effort to settle scores, his estranged spouse has within the past five months fabricated allegations and reported him to *inter alia* Muthangari and Kiambu Police Stations. Additionally, three civil cases have been filed against him in Dagoretti Law Courts and Milimani Law Courts.
3. Consequently, the applicant has been subjected to undue pressure. He was arrested in January 2025 due to alleged grievous bodily harm, and was released on a cash bail of Kshs. 50,000. He was then presented before Dagoretti Law Courts on 10th February 2025 where he took plea and was re-admitted to a cash bail of Kshs. 50,000, pending a ruling on bail set for 17th February 2025. The applicant was directed to report to Muthangari Police Station everyday pending the delivery of the ruling.
4. Further, on the evening of 13th February 2025, the applicant was directed to appear before Kiambu Police Station to record a statement over a report made against him by his estranged wife in October 2024. His pleas to record the statement on 18th February 2025 due to the fact that he was recently



bereaved and, that he is required to report to Muthangari Police Station and further attend court on 17th February 2025, fell on deaf ears.

5. The applicant is apprehensive that the demand is a ploy between the police and his estranged spouse to have him unjustifiably spend the weekend in custody, and ensure that he fails to appear before court for ruling on 17th February 2025. He seeks the court's protection to avoid arbitrary arrest based on trumped up charges.
6. At this juncture, the duty of this court is not to interrogate whether the applicant's apprehensions are genuine but rather, to protect his constitutional rights and fundamental freedoms guaranteed to all persons.
7. Article 49(1) of the Constitution states that an arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling persons not to be released. While the right to anticipatory bail or bond pending arrest is not specifically provided for by statute, there is no lacuna in the Constitution.
8. At this ex parte stage, I am only supposed to be satisfied, which I am, that unless the orders sought are granted, the applicant's right to liberty under Article 29 of the Constitution will be compromised.
9. Having considered the application, the supporting affidavit of the applicant, and the annexures thereto, I hereby order as follows:
 - i. The application is certified urgent.
 - ii. The applicant herein is admitted to anticipatory bail in the sum of Kenya Shillings Fifty Thousand (Kshs. 50,000) to be deposited in court.
 - iii. For the avoidance of doubt, the respondents are at liberty to investigate or charge the applicants for any criminal conduct. However, they shall not arrest or detain the applicants in view of order (ii) above or until further orders of the court.
 - iv. The applicant's advocate is further directed to escort the applicant to the offices of the 1st and 2nd respondents for questioning and/or interrogation within seven (7) days from the date hereof and not later than 21st February 2025.
 - v. Upon the conclusion of investigations, and if a decision to charge the applicant has been made, the 1st, 2nd and 3rd respondents shall not arrest or detain the applicant but they shall be informed of the court where they are to appear for plea taking.
 - vi. Order (v) shall remain in force until plea has been taken and the trial court has set new bail/bond terms in which case the orders of this court shall lapse.

RULING DATED AND DELIVERED IN THE ABSENCE OF PARTIES ON THIS 14TH DAY OF FEBRUARY 2025

D. KAVEDZA

JUDGE

