



**Micheni & another v Republic (Criminal Revision E004 & E006 of 2025  
(Consolidated)) [2025] KEHC 747 (KLR) (3 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 747 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E004 & E006 OF 2025 (CONSOLIDATED)**

**DR KAVEDZA, J  
FEBRUARY 3, 2025**

**BETWEEN**

**BETTY MUKAMI MICHENI ..... 1<sup>ST</sup> APPLICANT**

**CAROLINE WAMBUI MUCHIRA ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The 1st and 2nd Applicants filed applications dated 7th January 2025 and 2<sup>nd</sup> December 2024, respectively, seeking a revision of the trial court's ruling on excessive bail terms. This Court consolidated the applications for the purpose of this ruling. Each application is supported by an affidavit sworn by the respective Applicant on the corresponding date.
2. The applicants face multiple charges, before the trial court including: operating a clandestine laboratory (contrary to section 5B(1)(a) of the *Narcotic Drugs and Psychotropic Substances (Control) Act*, No. 4 of 1994); possession of precursor chemicals for producing narcotic drugs (contrary to section 4a(1)(A) of the same Act); being in possession of proceeds of crime contrary to section 4(c) as read with section 16(1)(a) and 16(1)(b) if the *Proceeds of Crime and Anti-Money Laundering Act*; and conspiracy to commit an offence (contrary to section 4B(2) as read with section 4B(5) of the *Narcotic Drugs and Psychotropic Substances (Control) Act*).
3. The applicants pleaded not guilty and was granted cash bail of Kshs. 5 million with two Kenyan sureties of the same amount. The applicants contend that the bail is excessive and punitive. Despite making an application for review of bail terms before the trial court, the court declined to review its orders. The 1<sup>st</sup> applicant stated that she is a mother of a child of tender years who needs care and protection. The applicants urged the court to review the bail/bond terms.



4. The application was heard through oral submissions. Mr. Omari presented arguments in support of the application, while the respondent, represented by Mr. Mutuma, did not oppose it.
5. I have considered the application, the arguments made in support of the application, and the applicable law. For consideration is whether the orders sought should be reviewed.
6. In granting bail, the court must also ensure that bail or bond terms must not be excessive or unreasonable and should not be far greater than what is necessary to ensure or guarantee the accused person's appearance before the court. Where this is the case, it would be tantamount to a denial of bail, a right that is enshrined in the *Constitution* and the *Criminal Procedure Code* as outlined above. This position was expounded in the case of *Taiko Kitende Muinya* [2010] eKLR.
7. The Bail and Bond Policy Guidelines on page 9 paragraph 3.1. (d) underpins the right to reasonable Bail and Bond terms. Conversely, bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Secondly, bail or bond conditions should be appropriate to the offence committed and consider the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by reference to the facts and circumstances prevailing in each case. The above position has been enunciated in various decisions by the courts as in the case of *Andrew Young Otieno vs. Republic* (2017) eKLR.
8. In this case, the court found it fit to admit the applicants to a cash bail of Kshs. 5 million in addition to two sureties of similar amount. The purpose of bail/bond is to ensure the accused attends court. In addition, the pre-bail reports on record further supports the applicants' case, indicating that they are of good character, have familial responsibilities, and are of limited financial means. Moreover, the community did not raise any objections to their release on bail, and there is no evidence to suggest that they pose a flight risk or a threat to the prosecution witnesses. Their continued incarceration despite being granted bail by the trial court is therefore a good ground for a review of the bail terms.
9. In the upshot, the orders of the subordinate court issued on 19<sup>th</sup> December 2024 are hereby revised as follows:
  - i. The cash bail of Kshs. 5,000,000, in addition to two sureties, imposed by the trial court on 19th December 2024 against the 1st and 2nd Applicants is hereby substituted with a cash bail of Kshs. 500,000 each.
  - ii. In the alternative to order (i) above, the 1<sup>st</sup> and 2<sup>nd</sup> applicants are each admitted to a bond of Kshs. 2,000,000 with one surety of similar amount.
  - iii. The 1<sup>st</sup> and 2<sup>nd</sup> applicants shall comply with the other bail terms issued by the trial court on 2<sup>nd</sup> December 2024.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY IN THE ABSENCE OF THE PARTIES THIS  
3<sup>RD</sup> FEBRUARY 2025**

.....

**D. KAVEDZA**

**JUDGE**

