



**Toheeb v Republic (Criminal Revision E010 of 2025)
[2025] KEHC 2918 (KLR) (11 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2918 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E010 OF 2025
DR KAVEDZA, J
MARCH 11, 2025**

BETWEEN

AFOLABI TOHEEB APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicants filed an undated notice of motion filed on 17th January 2025 seeking a review of the bail terms set by the trial court. The application is supported by an affidavit sworn by the applicants.
2. The averments made in support of the application are that: The applicant is facing a charge of assault causing actual bodily harm contrary to section 251 of the [Penal Code](#). He pleaded not guilty and was granted a cash bail of Kshs. 20,000, one surety and in addition to deposit his passport.
3. The applicant avers that he lost his passport in the run up to his arrest and has since obtained an abstract. He prays that the terms be revised to enable him deposit his passport only in addition to second Kenyan surety without the option of paying a cash bail.
4. The revisional jurisdiction of this court is donated by Section 362 of the [Criminal Procedure Code](#) which provides that:

“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.”
5. From the above provision, it is clear that the court can only revise orders or decisions of the lower court if it is satisfied that the decision, order, or finding is tainted with illegality, errors of law, or impropriety



or that there was an irregularity in the proceedings that gave rise to the impugned order, finding or decision.

6. The trial court's record shows that on 31st October 2024, the applicant took plea and denied the charges preferred against him. The trial court heard an application for bail pending trial. The applicant was granted bail.
7. I note that the after the bail was granted, the applicant did not file an application for review of the bail terms before the said court.
8. It is my finding that as a result the application is premature. The trial court was within its mandate to admit the bail terms it deemed fit. However, the first avenue for the applicant was the said court. Hence, I find nothing in the record of the lower court to show an illegality, irregularity, or impropriety to warrant review of the orders of the lower court.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 11TH DAY OF MARCH 2025

D. KAVEDZA

JUDGE

