

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

MISCELLANEOUS CRIMINAL APPLICATION NO.E032 OF 2024

GEORGE KAGWAI MAINA.....1ST APPLICANT
SAMUEL KARITU KAGWAI.....2ND APPLICANT
ANTHONY MWANGI KAGWAI.....3RD APPLICANT
GEORGE KAGWAI NYANDIA.....4TH APPLICANT

VERSUS

INSPECTOR GENERAL OF POLICE.....1ST RESPONDENT
DIRECTOR OF CRIMINAL INVESTIAGTION.....2ND RESPONDENT
OFFICE OF DIRECTOR OF PUBLIC PROSECUTION.....3RD RESPONDENT

RULING

1. This is a ruling in respect of a **Notice of Motion** application dated 5th April, 2024 in which the Applicant seeks the following orders:-
 - a) *Spent.*
 - b) *THAT the Applicant be granted anticipatory bail pending arrest for anyailable offence and return of summons.*
 - c) *THAT a day be appointed for the Applicant to appear before a Police station with his advocate to enable the police to undertake the normal procedure of investigations without*

taking the Applicant into custody.

d) THAT a day be appointed for the Applicants to appear in court for purposes of a charge or trial, if criminal charges are preferred and filed in court against him.

e) Costs be provided for.

f) Any other orders, directions, writ the Honourable Court considers appropriate in the circumstances to grant.

2. The Application is based on the grounds as set out on its face and reiterated in the Supporting Affidavit of **George Kagwai Maina**, 1st Applicant sworn on the instant date on his own behalf and on behalf of the other Applicants. According to the 1st Applicant, the dispute herein emanates from a domestic dispute with his wife of forty (40) years whereby there have been may threats of being charged with ‘serious offences’ over complaints made by his said wife, **Jane Waithera** at various Police Stations within Nairobi and Kiambu Counties. The 1st Applicant holds that these threats were worsening in that he had noticed suspicious people following him around for the last two months, for which he would report. For instance, the Applicant reported to Manjeri Police Station that he was encountering several suspicious and

unknown people following and tracing his movements but states the officer manning the report office desk refused to record the incident. It is the Applicant's averment that following the several disputes, he has been subjected to several threats to public arrests, humiliation or even death a result of which he had been sleeping in the car out of fear. The 1st Applicant has averred that he is fearful of his life and threat of his arrest and co-applicants, who are his sons and grandsons hence the need to obtain orders to secure their protection and freedom.

3. The Prosecution Counsel indicated that they were not opposed to the orders sought and stated that the same could be granted.
4. In consideration of the prayers sought, I have read through the **Notice of Motion** application alongside the grounds set as out on its face and Supporting Affidavit sworn by the 1st Applicant, and given that the same is unopposed, the Court proceeds to allow the said Notice of Motion application dated 5th April, 2024 and issues the following orders:-

a) THAT the Applicants be and are hereby granted anticipatory bail pending arrest for any bailable offence and return of summons.

b) That the Applicants to comply with any Order of Summons to enable the police to undertake the normal procedure of investigations.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU
THIS 23RD DAY OF MAY 2025.**

**D. O. CHEPKWONY
JUDGE**

In the presence of:

Mr. Cheche counsel for Applicant

M/S Ndeda counsel for the Respondent

Court Assistant - Martin