



**Republic v Aroko (Miscellaneous Criminal Application  
E096 of 2025) [2025] KEHC 6422 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6422 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
MISCELLANEOUS CRIMINAL APPLICATION E096 OF 2025**

**DR KAVEDZA, J**

**MAY 19, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**PHILLIP NAHASHON AROKO ..... RESPONDENT**

**RULING**

1. On 9<sup>th</sup> May 2025, the respondent was arraigned before the Chief Magistrate’s Court at JKIA in Misc. Application E082 of 2025. The applicant sought to have the respondent detained in police custody for seven (7) days to facilitate the completion of investigations. The court granted the custodial orders as prayed. On 16<sup>th</sup> May 2025, the respondent was again arraigned before the same court under the same matter. The applicant sought a further extension of custodial orders for an additional seven (7) days. However, the court declined the application and instead released the respondent on a cash bail of Kshs. 300,000.
2. Dissatisfied with the said ruling, the applicant, by a letter dated 16<sup>th</sup> May 2025, invoked the court’s revisionary jurisdiction under section 362 as read with section 364 of the *Criminal Procedure Code*. The applicant seeks to have the order granting the respondent cash bail set aside and prays that the respondent be remanded in custody pending the conclusion of investigations. The applicant contends that continued detention is necessary to safeguard the integrity of the ongoing investigations and to prevent interference with potential witnesses or evidence.
3. I have duly considered the application and the relevant legal provisions. The issue for determination is whether the orders sought by the applicant merit the court’s intervention through revision.
4. The applicant challenges the trial court’s decision to grant bail to the respondent. Article 49(1)(g) of *the Constitution* entitles an arrested person, at first court appearance, to either be charged, informed of the reason for continued detention, or released.



5. Upon consideration of Article 49 and the rights enshrined therein, it is evident that the trial court exercised its discretion within constitutional limits. This Court cannot interfere with that discretion merely because it may have reached a different conclusion. It is therefore incumbent upon the applicant to demonstrate that the trial court acted irregularly or misdirected itself in law or fact. The revisionary powers under Section 362 of the Criminal Procedure Code are limited to correcting such irregularities or illegalities.
6. A review of the application shows that the matter under investigation is murder, a serious offence. Article 49(1)(g) allows for pre-charge detention if the suspect is informed of the reasons for the continued detention, as affirmed in *Betty Jemutai Kimeiywa v Republic* [2018] eKLR. Article 29 of the Constitution further requires that no person be deprived of liberty without justifiable cause. Even so, any pre-charge detention must balance the suspect's rights, the interests of victims, and public interest.
7. As articulated in *Sudi Oscar Kipchumba v Republic* [2020] eKLR, the State must satisfy a double test: first, that continued detention is justified by exceptional circumstances; second, that such detention is the least restrictive measure to preserve the integrity of justice, public order, and victims' rights.
8. From the foregoing jurisprudence, it is evident that the learned trial magistrate acted within the confines of the law in admitting the respondent to bail. However, in view of the intricate and protracted nature of the ongoing investigations in particular those involving forensic analysis of financial and digital data, which by their very nature require significant time and expertise, the court ought to have exercised judicial discretion in favour of the applicant. The complexity of the matter is further compounded by the respondent's status as a public figure, which elevates the case to one of considerable public interest. In such circumstances, the court was under a duty to strike a fair balance between the respondent's right to liberty and the public interest in the effective administration of justice. It is therefore my view that the trial court ought to have allowed the applicant reasonable time to finalise investigations before releasing the respondent on bail.
9. Furthermore, the applicant's prayer for a limited restriction of the respondent's liberty for a further period of seven (7) days was not only reasonable but proportionate, having regard to the nature and scope of the investigations. Such a brief deprivation of liberty would have enabled the investigating authorities to conclude the requisite inquiries without unduly prejudicing the respondent's constitutional rights.
10. The upshot of the above analysis is that the application is found to be merited and I hereby issue the following orders:
  - i. The application is hereby certified as urgent.
  - ii. The orders issued on 16th May 2025 by the Chief Magistrate's Court at JKIA in Misc. Criminal Application No. E082 of 2025 Republic vs. Phillip Nahashon Aroko, admitting the respondent to cash bail are hereby set aside.
  - iii. The respondent, Phillip Nahashon Aroko, shall remain in lawful custody at Kileleshwa Police Station for a further period of seven (7) days to allow the applicant to finalise investigations.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 19<sup>TH</sup> DAY OF MAY 2025**

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**D. KAVEDZA**



**JUDGE**

