



**Ochieng & another v Officer-Commanding Station Kibera
Police Station & 2 others (Miscellaneous Criminal Application
E113 of 2025) [2025] KEHC 8476 (KLR) (18 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8476 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E113 OF 2025**

DR KAVEDZA, J

JUNE 18, 2025

BETWEEN

FRED OCHIENG 1ST APPLICANT

STEPHEN ADWERA OMONDI 2ND APPLICANT

AND

**THE OFFICER-COMMANDING STATION KIBERA POLICE
STATION 1ST RESPONDENT**

**INSPECTOR GENERAL OF POLICE, NATIONAL POLICE
SERVICE 2ND RESPONDENT**

THE DIRECTOR OF PUBLIC PROSECUTION 3RD RESPONDENT

RULING

1. The applicants have filed a Notice of Motion dated 12th June 2025 under certificate of urgency, seeking anticipatory bail pending arrest or charge. The motion is supported by an affidavit sworn on the same date.
2. The grounds in support of the application are that the 1st applicant is the sole accused in Kibera Chief Magistrate's Criminal Case Nos. E438/2025 and E523/2025, where he is charged with the offence of assaulting Frankline Ogach and threatening to kill Florence Muthoni, allegations which he denies.
3. The 1st applicant contends that a new complaint has been lodged by Fatuma Kakaya Bosire, the key prosecution witness in Criminal Case No. E523/2025. He alleges that the 1st respondent has summoned him and that his arrest is imminent. It is argued that the intended arrest is punitive, aimed at curtailing his liberty and straining their resources to weaken his defence in the pending cases.



Furthermore, that unless the court intervenes, he risks the violation of his constitutional rights to liberty, a fair trial, and equal protection under the law.

4. The court has considered the application. It is unclear from the record what specific action the 2nd applicant is facing. He is not mentioned adversely in the supporting affidavit, nor is it evident that he is a party to the pending criminal proceedings. Further, the 1st applicant has not stated that he is authorised to swear the affidavit on behalf of the 2nd applicant.
5. Be that as it may, the substantive issue is whether anticipatory bail should be granted to the 1st applicant. The 1st applicant is facing ongoing criminal proceedings in Nairobi County arising from allegations of assault and issuing threats to life.
6. From the application before court, no evidence has been adduced to show that the respondents have acted in bad faith, abused their powers, or sought to unlawfully detain or harass the 1st applicant.
7. Anticipatory bail is a constitutional safeguard against unlawful arrest or detention. It is not granted as of right, but on proof of a real and imminent threat to liberty. In this case, the 1st applicant's fears are speculative and unsupported by evidence of malice or improper motive.
8. Absent proof of unlawful conduct on the part of the respondents, the court finds no basis to interfere. The court cannot pre-empt lawful arrest or prosecution without a clear violation or threatened violation of constitutional rights.
9. Accordingly, the prayer for anticipatory bail is declined.

RULING DATED AND DELIVERED VIRTUALLY THIS 18TH DAY OF JUNE 2025.

D. KAVEDZA

JUDGE

