



REPUBLIC OF KENYA



KENYA LAW
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**Shapaya v Republic (Criminal Revision E079 of 2025)
[2025] KEHC 8570 (KLR) (18 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8570 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E079 OF 2025**

**DR KAVEDZA, J
JUNE 18, 2025**

BETWEEN

BEN SHAPAYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before the subordinate court, the applicant is facing a charge of cheating contrary to section 315 of the *Penal Code*. He pleaded not guilty and was admitted to bond of Kshs. 500,000 with a surety of a similar amount. Vide an application dated 18th June 2025, he sought review of the bond terms imposed.
2. The grounds raised in support of the application are that the applicant is a Doctor at Coast Teaching and Referral Hospital. The trial court has failed to grant the option of a cash bail. Bond terms imposed involve long verification process. This will hinder his ability to discharge essential duties as a health practitioner and affect his availability at work. Further, no compelling reasons were furnished by the prosecution to justify the lack of an alternative to a bond. The applicant is willing to abide by the terms of bail set by the court. He prayed for the grant of cash bail.
3. 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.
4. In granting bail, the court must ensure that terms are not excessive, as this amounts to a denial of bail, a right protected under the *Constitution* and the *Criminal Procedure Code*, as affirmed in *Taiko Kitende Muinya* [2010] eKLR. As noted in the *Bail and Bond Policy Guidelines* (p. 9, para. 3.1(d)), bail must be reasonable, neither so high as to be oppressive nor so low as to encourage an accused to abscond. Reasonableness is assessed on a case-by-case basis, as held in *Andrew Young Otieno v Republic* [2017] eKLR.



5. In this matter, the court initially admitted the applicant to bond in the sum of Kshs. 500,000 with one surety of similar amount. This implied that the applicant was deemed capable of meeting the terms. It is trite that the primary purpose of bail or bond is to secure the accused's attendance in court during trial.
6. Upon reviewing the record, there was no objection by the prosecution to the grant of bail or bond. The applicant is a civil servant based in Mombasa. In addition, this court takes judicial notice that the verification of documents take time. Further, there was no indication from the record why cash bail was excluded as an option under the circumstances.
7. Having considered the nature of the charge and the averments on record, I find that the applicant qualifies for the grant of a cash bail. Accordingly, I hereby issue the following orders:
 - i. In addition to the trial court's order admitting the applicant, Ben Shapaya, to bond of Kshs. 500,000 with one surety of a similar amount, the applicant is granted an alternative of cash bail in the sum of Kshs. 200,000 with one contact person.
 - ii. The applicant is at liberty to apply for further review of bond terms before the trial court.Orders accordingly.

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

D. KAVEDZA

JUDGE

