



**Adhiambo v Republic (Miscellaneous Criminal Application
E124 of 2025) [2025] KEHC 11103 (KLR) (28 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11103 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E124 OF 2025**

DR KAVEDZA, J

JULY 28, 2025

BETWEEN

NOAH ADHIAMBO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant with others not before this court is charged before the subordinate court with the offence of stealing motor vehicle contrary to section 278A of the [Penal Code](#). Before the trial court, he applied and was admitted to a bond of Kshs. 1,000,000 with a surety of a similar amount. In the alternative, he was granted a cash bail of Kshs. 500,000.
2. He filed the present application seeking revision of the bond terms. He prayed that this court review the bond/bail terms downwards. The application is premised on the grounds on the face thereof and supported by his affidavit. The averments made are that he is the sole breadwinner in a family. The bail terms set by the court are too stringent. He is ready and willing to abide by the terms set by the court.
3. Article 49(1)(h) of the [Constitution](#) guarantees the right of an arrested person to be released on bail or bond on reasonable conditions, unless there are compelling reasons for denial. Section 123A of the [Criminal Procedure Code](#) provides for exceptions to this right. Importantly, the burden lies with the prosecution to demonstrate such compelling reasons.
4. In exercising its discretion to grant bail, the court must ensure that the conditions imposed are not excessive or unreasonable. Bail or bond terms should be proportionate to the objective of securing the accused person's attendance at trial. If the terms are unduly onerous, they may amount to a constructive denial of bail, which is contrary to both the letter and spirit of the [Constitution](#) and the [Criminal Procedure Code](#). This principle was affirmed in the case of [Taiko Kitende Muinya v Republic](#) [2010] eKLR.



5. That said, the court must avoid setting bail or bond at an amount so low that it would fail to deter absconding. The terms must strike a balance: they should be fair and reasonable, but also sufficient to bind the accused to appear and to reflect the seriousness of the offence.
6. I have considered the nature of the charge, the circumstances of the case, and the potential sentence if the applicant is convicted. Having weighed these factors, I find that the bond terms set by the trial magistrate were not harsh or excessive.
7. The upshot of the above analysis is that the application for review of the bond/bail terms is found to be lacking in merit and is dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 28TH DAY OF JULY 2025

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D. KAVEDZA

JUDGE

