



**Abdullahi v Republic (Criminal Revision E087 of 2025)  
[2025] KEHC 9897 (KLR) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9897 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E087 OF 2025  
DR KAVEDZA, J  
JULY 10, 2025**

**BETWEEN**

**HUSSEIN SHEIKH ABDULLAHI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before the trial court, the applicant is facing one count of obtaining money by false pretences contrary to section 313 of the [Penal Code](#) and five counts of making a false document contrary to section 347(a) as read with section 349 of the [Penal Code](#). During the trial, the applicant failed to attend court and the trial magistrate cancelled his bail and issued a warrant of arrest against him.
2. The applicant filed the notice of motion dated 3<sup>rd</sup> July 2025, seeking a revision of the orders issued by the trial court on 2<sup>nd</sup> July 2025 cancelling his bail and issuing a warrant of arrest against him.
3. The applicant contends that he was charged and granted bond of Kshs. 3,000,000. Before his release, he was treated for bronchitis at the Prison Health Centre and Kenyatta National Hospital and continues to receive treatment. He has since been diagnosed with Splenitis and is under medical care. On 2nd July 2025, he missed court due to an appointment at Kenyatta National Hospital but informed his counsel, who notified the court and provided medical documents. The court nonetheless cancelled his bond, declaring him an absconder. The applicant argues that the trial magistrate failed to properly assess the documents and did not exercise her discretion judiciously. He now seeks revision of the trial court's orders and reinstatement of his bond.
4. The power of this court in its revisionary jurisdiction is founded under Section 362 of the [Criminal Procedure Code](#) (Cap 75) Laws of Kenya which provides that:

The High Court may call for and examine the record of any criminal proceedings before any subordinate court to satisfy itself as to the correctness, legality, or propriety of any finding,



sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.

5. Consequently, this court has jurisdiction to entertain the application before me. In the instant application, the applicant sought the revision of orders made by the trial court cancelling his bond and issuing a warrant of arrest against him.
6. I have carefully examined the record of the trial court. It is evident that on 2nd July 2025, the applicant failed to appear when the matter was called out. The record further shows that on the said date, the applicant's Counsel, Mr Bigambo, informed the court that the applicant was ill. The trial court in its ruling noted that the applicant had not furnished any medical records to confirm that he had indeed been admitted in the hospital and was therefore genuinely indisposed from attending court as required. Consequently, the learned magistrate proceeded to cancel the applicant's bond and issue a warrant of arrest.
7. While the court was entitled to question the sufficiency of the explanation given for the applicant's absence, it is this court's considered view that a fair approach would have been to direct the Investigating Officer to verify the authenticity and accuracy of the medical documents presented. This additional step would have ensured that the applicant's right to be heard was not unjustly curtailed due to a possible procedural lapse in presenting documentation at short notice. The trial court ought to have exercised its discretion judiciously by seeking further clarification through the Investigating Officer rather than relying solely on the absence of immediate medical documents.
8. The cancellation of bond and issuance of the warrant of arrest, in the circumstances, appears precipitate and may amount to an infringement of the applicant's right to fair trial as enshrined under Article 50 of the *Constitution*. This court therefore finds that the interests of justice would have been better served had the trial court given the applicant a reasonable opportunity to substantiate his claim of illness through official verification. It is the duty of any court to balance the need for orderly proceedings with the fundamental rights of an accused person. Failure to do so risks undermining public confidence in the administration of justice.
9. For the forgoing reasons, I hereby make the following orders:
  - i. I hereby direct that the letter from Kenyatta National Hospital and any related medical documents on record be submitted by the Deputy Registrar to the Investigating Officer for immediate verification.
  - ii. The Investigating Officer shall file a report confirming the authenticity or otherwise of the said documents within seven (7) days from the date of this order.
  - iii. The report shall be filed in court on or before 18th July 2025.
  - iv. The matter shall be mentioned virtually on 22nd July 2025 for further directions on this application.
  - v. The applicant is directed to appear physically in court on 22<sup>nd</sup> July 2025

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 10<sup>TH</sup> DAY OF JULY 2025**

**D. KAVEDZA**

**JUDGE**

