



REPUBLIC OF KENYA



Kemunto v Inspector General of Police & 3 others (Miscellaneous Criminal Application E133 of 2025) [2025] KEHC 9910 (KLR) (8 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9910 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E133 OF 2025**

DR KAVEDZA, J

JULY 8, 2025

BETWEEN

MARCELLA KEMUNTO APPLICANT

AND

INSPECTOR GENERAL OF POLICE 1ST RESPONDENT

DIRECTOR OF PUBLIC PROSECUTIONS 2ND RESPONDENT

DIRECTORATE OF CRIMINAL INVESTIGATIONS 3RD RESPONDENT

CHIEF INSPECTOR GLADYS JEPKORIR KIPRUTO 4TH RESPONDENT

RULING

1. The applicant has filed the present notice of motion dated 4th July 2025 seeking orders of anticipatory bail. The application is supported by an affidavit sworn by the applicant of similar date.
2. The grounds in support of the application are as follows. The Applicant was formerly employed by Whitepath Company Limited, where she served as a Human Resource Officer until her resignation on or about 21 June 2025.
3. During her employment, the Applicant states that he acted at all times in the best interests of the company and in good faith. She avers that in the course of her duties, he was occasionally required to sign or swear documents on behalf of the company, including affidavits. In performing such duties, he would require and obtain an authority to plead approving the facts deponed.
4. The Applicant further states that on 15th May 2025, the company moved the Court at Milimani for unfreezing orders and, as an official of the company at that time, he discharged her role by deponing to the facts in the Supporting Affidavit.



5. The Applicant asserts that due to persistent frustration by DCI officers in relation to the said affidavit, she elected to resign, which resignation was accepted by the company on 25th June 2025. She maintains that despite having resigned, she has since been summoned by Chief Inspector Gladys Jepkorir Kipruto, an officer attached to the Banking Fraud Investigation Unit, in connection with the ongoing investigations.
6. The Applicant avers that she has not been served with any charge or presented with any specific allegation of personal wrongdoing. However, he states that he has credible information and has observed conduct which gives him reasonable cause to believe that she may be arrested solely on account of her former position and her having sworn an affidavit for the company.
7. The Applicant maintains that she has no control, interest, or involvement in the company's affairs following her resignation and was never involved in any money laundering or other illegal activity whatsoever. She further states that she is a law-abiding citizen, not a flight risk, and is willing to cooperate fully with the police and appear for questioning as summoned, provided that her constitutional rights are safeguarded and her liberty is not unjustly curtailed.
8. The applicant is apprehensive that unless this Court intervenes, she may be subjected to arbitrary arrest, unlawful detention, and potential abuse of the criminal process, despite having no personal culpability in the alleged offences. She maintains that the application is brought in good faith and not to obstruct justice, but to ensure that any investigation is conducted lawfully, fairly, and in accordance with her constitutional rights.
9. The court cannot bar the respondents from investigating or prosecuting the applicant. Its duty is to safeguard the applicant from any breach of her rights through intimidation, arbitrary arrest or detention.
10. Being a former employee of Whitepath Company Limited, the applicant must present herself to the police to give her account. She has informed the court of her willingness to cooperate with the investigations, notwithstanding her previous employment. It is for the respondents to ascertain whether any offence was committed during her tenure.
11. At this stage, the court's role is not to assess whether the applicant's fears are justified but to uphold her constitutional rights and fundamental freedoms. Article 49(1) of the Constitution confers on an arrested person the right to be released on bond or bail, on reasonable terms, pending charge or trial, save for compelling reasons. Although anticipatory bail or bond pending arrest is not expressly provided for by statute, the Constitution fills any such gap.
12. Further, Article 22(1) of the Constitution entitles every person to institute proceedings alleging that a right or fundamental freedom has been denied, violated, infringed or threatened. The provision extends to applicants seeking anticipatory bail. However, before such an order issues, the court must be satisfied that the threat is credible and not merely speculative.
13. The applicant avers that she faces persistent intimidation by law enforcement arising from her role as an employee of Whitepath Company. She maintains that without the reliefs sought, her rights stand to be unjustly curtailed.
14. At this ex parte stage, I am only supposed to be satisfied, which I am, that unless the orders sought are granted, the applicant's right to liberty under Article 29 of the Constitution will be compromised.
15. Having considered the application, the supporting affidavit of the applicant, and the annexures thereto, I hereby order as follows:



- i. The applicant herein is admitted to anticipatory bail in the sum of Kenya Shillings Fifty Thousand (Kshs. 50,000) to be deposited in court.
- ii. For the avoidance of doubt, the respondents are at liberty to investigate or charge the applicant for any criminal conduct. However, they shall not arrest or detain the Applicant in view of order (i) above or until further orders of the court.
- iii. The applicant's advocates are further directed to escort the applicant to the offices of the 3rd respondents for questioning and/or interrogation within seven (7) days from the date hereof and not later than 17th July 2025.
- iv. Upon the conclusion of investigations, and if a decision to charge the applicant has been made, the respondents shall not arrest or detain the applicant but she shall be informed of the court where she is to appear for plea taking.
- v. Order (iv) shall remain in force until plea has been taken and the trial court has set new bail/bond terms in which case the orders of this court shall lapse.

RULING DATED AND DELIVERED VIRTUALLY ON THIS 8TH DAY OF JULY 2025

D. KAVEDZA

JUDGE

