



Ndirangu alias Samidoh v Director of Public Prosecutions & 7 others (Miscellaneous Criminal Application E147 of 2025) [2025] KEHC 10746 (KLR) (24 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10746 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E147 OF 2025**

DR KAVEDZA, J

JULY 24, 2025

BETWEEN

SAMWEL MUCHOKI NDIRANGU ALIAS SAMIDOH APPLICANT

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS 1ST RESPONDENT

THE DIRECTOR OF CRIMINAL INVESTIGATIONS 2ND RESPONDENT

THE NATIONAL POLICE SERVICE 3RD RESPONDENT

THE INSPECTOR GENERAL OF POLICE 4TH RESPONDENT

THE ATTORNEY GENERAL 5TH RESPONDENT

**THE OFFICER COMMANDING POLICE STATION JOMO KENYATTA
INTERNATIONAL AIRPORT 6TH RESPONDENT**

THE COMMANDANT ANTI STOCK THEFT UNIT 7TH RESPONDENT

**THE DIVISIONAL CRIMINAL INVESTIGATION OFFICER JOMO KENYATTA
INTERNATIONAL AIRPORT 8TH RESPONDENT**

RULING

1. The applicant has moved this court by a Notice of Motion dated 24th July 2025, filed under a certificate of urgency, seeking orders for admission to anticipatory bail pending arrest or charge. The application is supported by the applicant's affidavit sworn on the same date.
2. The applicant avers that he has been in the National Police Service as a Police Constable from 12th January 2013 until 17th June 2025, when he applied to retire under the "10-22 Rule" pursuant to section 76(3) of the [National Police Service Act](#).



3. Prior to lodging the retirement request, the applicant travelled to the United States to visit his family and attend his child's graduation. He asserts that the travel was authorised by the 3rd Respondent. While abroad, he learnt that a warrant of arrest had been issued against him by the same 3rd Respondent on the grounds that he had deserted duty.
4. Upon learning of the warrant, the applicant returned to Kenya on 17th June 2025, formally tendered his retirement request, and was duly cleared by the National Police Service. He later returned to the United States and now intends to travel back to Kenya on 25th July 2025.
5. The applicant expresses apprehension that he may be arrested upon arrival. He contends that the issuance of the warrant was unjustified and malicious, particularly since his travel had been sanctioned by the same authority now seeking his arrest. He asserts that the respondents' actions are an abuse of police powers intended to harass and intimidate him, contrary to the tenets of justice and fair administrative action. He maintains that he is a law-abiding citizen ready to cooperate with the legal process.
6. In applications for anticipatory bail, the court is constitutionally obligated to safeguard the rights and freedoms of individuals, particularly the right to liberty, while maintaining due regard for the lawful exercise of state power, including arrest and prosecution.
7. The applicant contends that the threat to his liberty arises not from lawful police action but from improper motives linked to his political views and criticism of government, which have been disguised as allegations of desertion.
8. The court's duty at this point is not to make conclusive findings on the allegations but to assess whether the applicant's rights are under real and imminent threat, and whether the intervention of the court is necessary to avert a potential violation.
9. Article 49(1) of *the Constitution* guarantees every arrested person the right to bail or bond on reasonable conditions unless compelling reasons are shown. Though anticipatory bail is not expressly provided for in statute, Article 22(1) empowers any person to approach the court where a right or fundamental freedom is threatened.
10. For an order of anticipatory bail to issue, the applicant must demonstrate more than generalised fear. The apprehension must be credible, supported by facts showing a real risk of unlawful or unjustified arrest.
11. The applicant has annexed documents including his letter requesting travel authorisation, his leave application, and retirement request. He has also produced a copy of the warrant of arrest allegedly issued against him.
12. At this ex parte stage, the annexures lend credence to his claim that the threat of arrest is not speculative. The court notes that the same authority that approved his travel is now pursuing him for alleged desertion, raising legitimate concerns in respect of the warrant of arrest.
13. Article 29 of *the Constitution* guarantees the right to freedom and security of the person, including the right not to be subjected to arbitrary arrest. The court must ensure that any deprivation of liberty is justified and based on lawful grounds.
14. At this stage, the court is satisfied that there exists a demonstrable and imminent threat to the applicant's liberty. Absent interim protection, the applicant may be subjected to unlawful detention or harassment contrary to *the Constitution*.



15. Accordingly, the court grants anticipatory bail to the applicant on the following terms:
- i. The application is certified urgent.
 - ii. The applicant herein is admitted to a personal bond of Kshs. 200,000 which shall be executed by the Deputy Registrar
 - iii. The applicant is directed to deposit his passport in court.
 - iv. 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 (ii) above or until further orders of the court.
 - v. 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 he shall be informed of the court where he is to appear for plea taking.
 - vi. Order (v) shall remain in force until a plea has been taken and the trial court has set new bail/ bond terms in which case the orders of this court shall lapse.
 - vii. The matter shall be mentioned virtually on 16th September 2025.

RULING DATED AND DELIVERED ON THIS 24TH DAY OF JULY 2025.

D. KAVEDZA
JUDGE

