



Weibo & 2 others v Director of Public Prosecutions & 3 others (Miscellaneous Criminal Application 36 of 2024) [2024] KEHC 5293 (KLR) (21 May 2024) (Ruling)

Neutral citation: [2024] KEHC 5293 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION 36 OF 2024**

DR KAVEDZA, J

MAY 21, 2024

BETWEEN

WANG WEIBO 1ST APPLICANT

WEN GAOYUAN 2ND APPLICANT

BAO GOLD HILL KENYA LIMITED 3RD APPLICANT

AND

DIRECCTOR OF PUBLIC PROSECUTIONS 1ST RESPONDENT

DIRECTOR CRIMINAL INVESTIGATIONS 2ND RESPONDENT

INSPECTOR GENERAL OF POLICE 3RD RESPONDENT

**DIRECTOR GENERAL DEPARTMENT OF IMMIGRATION 4TH
RESPONDENT**

RULING

1. The 1st and 2nd applicants filed the notice of motion dated 16th May 2024 under certificate of urgency. The applicants are seeking orders of anticipatory bail. The application is supported by an affidavit of similar date sworn by the 1st applicant.
2. The averments made in support of the application are that he is a director of the 3rd respondent company, with the 2nd applicant being its project manager. He holds a valid work permit. The company applied for a mining license which is pending approval. In early 2024, the 1st and 2nd applicants were arrested and charged in Kilgoris Law Court for the offence of engaging in unauthorised mining operations vide Cr. E398/24. That they pleaded guilty and have been paid the fine imposed. Since then, officers from the 2nd respondent have been threatening them with arrest and deportation for allegedly conducting mining activities without a valid license. They are apprehensive of their impending arrest and charge. They sought the court's intervention.



3. Having considered the application, the supporting affidavit, and the applicable law, it is noted that the applicants have annexed the incorporation certificate of the 3rd applicant and the prospecting license issued thereto. They have also attached the charge sheet pursuant to which they were arraigned in Kilgoris. However, they did not provide the certified record of proceedings from the said court. From the annexures on record, there is no evidence indicating that the case against the applicants was heard and determined by the court sitting at Kilgoris.
4. Notwithstanding this, it is evident that the 1st and 2nd applicants were charged at Kilgoris Law Courts. Furthermore, the investigations in this matter originate from Transmara Sub-County in Narok County. The court vested with supervisory jurisdiction over this subject matter is the Narok High Court. Consequently, I decline to grant the orders of anticipatory bail sought for lack of territorial jurisdiction.
5. The application dated 16th May 2024, is consequently struck out.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 21ST DAY OF MAY 2024

D. KAVEDZA

JUDGE

