



**Abubakar alias Abdala Salum Choba v Republic (Criminal Revision E016 of 2024) [2024] KEHC 10935 (KLR) (20 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10935 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E016 OF 2024  
DR KAVEDZA, J  
SEPTEMBER 20, 2024**

**BETWEEN**

**ALI SOMOEWANA ABUBAKAR ALIAS ABDALA SALUM  
CHOBA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant vide an oral application made on 20<sup>th</sup> September 2024 sought a review of the ruling delivered by this court on 17<sup>th</sup> September 2024 and admitting the applicant to a bond of Kshs. 2,000,000 with one surety of a similar amount. Learned counsel for the applicant prayed that the applicant be admitted to a cash bail.
2. The arguments made in support of the application are that due to institutional challenges, processing of bond has been very slow that majority of the accused persons released on bond as still in prison. Secondly, the applicant is a first offender unlike his co-accused, Nancy Munyota.
3. The applicant was not opposed by Learned prosecution counsel who submitted that the respondent will not suffer prejudice if the applicant is released on a cash bail.
4. At the outset, it should be noted that the application for variation of the bond terms was made immediately after delivery of the ruling. The application before me therefore, is not for revision, but, for variation of the bond terms set by this court. In the case of *Republic v Diana Suleiman Said & Another* [2014] eKLR Muriithi J was of the view that the court does not become functus officio on a first application for bond. Further that the *constitution* of Kenya 2010 and section 123 of the *Criminal Procedure Code* (amended) makes bail/bond available at all times.
5. In this case, this court allowed the applicant’s application and granted the applicant bond in its ruling dated 17<sup>th</sup> September 2024.



6. As stated herein above, the application for variation of bond terms is not opposed.
7. It is trite law that that the paramount principle to be considered in granting bail, is to secure the attendance of the accused during trial. It's for this reason that bail terms set should neither be so lenient as to entice the accused to abscond nor should they be so excessive so as to amount to 'indirect' denial.
8. Additionally. section 123 (2) of the [Criminal Procedure Code](#) provides that:  
The amount of bail shall be fixed with due regard to the circumstances of the case, and shall not be excessive.
9. The question for determination then is what amounts to reasonable bail in this case. I have already stated herein above that the application is not opposed by the respondent. That being the case, I accordingly the application for bond variation in the following terms:
  - i. The applicant is granted a cash bail of Kshs. 1,000,000.
  - ii. The depositor of the cash bail shall also be the contact person.
  - iii. The probation officer shall physically confirm the permanent residence of the contact person.
  - iv. The contact person shall avail a copy of his/her National Identity Card, a passport photograph and the chief's letter indicating that he/she is known the applicant.
  - v. The applicant is directed to deposit his passport in court and shall be retained during the period of his trial.
  - vi. The applicant shall not be issued with any new passport and or any temporary travelling documents of whatever nature.
  - vii. The applicant shall report to the investigating officer every month until the conclusion of the trial.
  - viii. This order shall be served upon the Immigration Department by the Deputy Registrar in compliance with order (VII) above

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 20TH DAY OF SEPTEMBER 2024**

.....

**D. KAVEDZA**

**JUDGE**

In the presence of:

Maroro for the Respondent

Ms. Marinda for the Applicant

Achode Court Assistant.

