



Njiraini v Director of Public Prosecution & 2 others (Criminal Miscellaneous Application E179 of 2023) [2023] KEHC 17726 (KLR) (Crim) (19 May 2023) (Ruling)

Neutral citation: [2023] KEHC 17726 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL MISCELLANEOUS APPLICATION E179 OF 2023**

DR KAVEDZA, J

MAY 19, 2023

BETWEEN

BENARD NJIJNU NJIRAINI APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTION 1ST RESPONDENT

DIRECTOR OF CRIMINAL INVESTIGATIONS 2ND RESPONDENT

INSPECTOR GENERAL OF POLICE 3RD RESPONDENT

RULING

1. The applicant Benard Njijnu Njiraini filed a Notice of Motion application dated 18/5/2023, under certificate of urgency. The application is brought under Articles 22, 23(3), 24, 29, 47, 50 and 165 (5) and (6) of *the Constitution* of Kenya. The application is supported by the affidavit of the applicant deponed on 18/5/2023.
2. The applicant has sought a conservatory order to issue restraining the respondents, whether acting by themselves, their agents, representatives and/or all other officers subordinate to them from summoning, arresting, holding, detaining, incarcerating and/ or in any other way interfering with the applicant's liberty without following the due process pending the hearing and determination of the application/ petition.
3. I have gone through the ex parte notice of motion application, the supporting affidavit and the annexures thereto, and issue the following orders:
 - a. That the application is certified as urgent.



- b. That the applicant is admitted to anticipatory bail in the sum of Kshs. 500,000 (personal bond).
- c. That a conservatory order is issued restraining the respondents and or their representatives including subordinate officers from arresting, holding and/ or detaining the applicant pending hearing of the application interpartes.
- d. That the applicant shall be escorted by his advocate to the offices of the 2nd Respondent on 22/5/2023 for questioning and/ or interview.
- e. That the order of the court does not in any way prohibit the respondents from conducting investigations against the applicant.
- f. That should a decision to charge the applicant be made by the respondents, the applicant shall be summoned to the respondents' offices for processing, and the applicant shall be directed to the relevant court to take plea, in which case the order of the court shall automatically lapse.
- g. That the application and the order of this court shall be served upon the respondents within 3 days from the date hereof and the respondents shall upon service file their responses within 10 days.
- h. That this matter be mentioned on 20/6/2023 for directions.

RULING READ AND DELIVERED ON 19TH DAY OF MAY 2023.

D. KAVEDZA

JUDGE

