



REPUBLIC OF KENYA



**Ali v Republic (Criminal Revision E010 of 2023)
[2023] KEHC 19038 (KLR) (6 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19038 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL REVISION E010 OF 2023**

A. ONG'INJO, J

JUNE 6, 2023

BETWEEN

ABDULMAJID ALI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Abdul Majid Ali through a letter dated April 28, 2023 filed under Certificate of Urgency sought that pursuant to Article 165(6) and (7), Articles 24, 49 and 50 of the Constitution as well as Section 362 to 364 of the Criminal Procedure Code this court calls for the record of the lower court in Criminal Case No E148 of 2023 – Republic vs Abdulmajid Ali Al-Busayyit to satisfy itself of the correctness, legality, propriety and regularity of the order of the learned Magistrate’s ruling on April 27, 2023 where the application was dismissed and the accused person denied his passports.
2. This court has considered the application for revision of the trial Magistrates orders and finds that the trial Magistrate acted within her discretion to make the orders sought to be revised based on evidence presented before her. There is therefore no evidence of impropriety illegality, irregularity on the part of the trial Magistrate.
3. Dr Kamami of Coast General Teaching & Referral Hospital recommended urgent Neurological review for workup and definitive management by a report dated March 29, 2023. Dr Gayle recommended Kenyatta National Hospital for the neurologist review and definitive management.
4. The additional evidence brought by the applicant dated May 30, 2023 was not tendered in the application in the lower court and cannot be subject of revision application herein. There is no evidence the applicant has been admitted for management of his condition in any hospital that recommended his treatment abroad.



5. The 2 passports surrendered by the applicant as condition of his release on bond bear 2 different names which names have not been reconciled. Why would the applicant use 2 different names to obtain the Kenyan and British passports? The suspicion by the Trial Magistrate that applicant is a flight risk are valid in consideration of the double identity.
6. This court therefore finds that the application does not have merit and the same is dismissed. The 2 passports to be kept in safe custody pending hearing and determination of the trial in the lower court. Hearing on June 19, 2023 in the lower court.

DATED, SIGNED AND DELIVERED BY E-MAIL THIS 6TH DAY OF JUNE 2023

HON LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of:-

Ogwel – Court assistant

Mr Wangila Advocate for Applicant

Mr Ngiri for State

Applicant – Not available

Hon Lady Justice A Ong'injo*

Judge

