



**Maweo v Republic (Miscellaneous Criminal Application E163 of 2024)
[2024] KEHC 14411 (KLR) (18 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14411 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E163 OF 2024**

**DR KAVEDZA, J
NOVEMBER 18, 2024**

BETWEEN

SILA MAWEO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, through a Notice of Motion received on 14th October 2024, seeks a review of the bond terms imposed by the subordinate court on 4th October 2024. The applicant is facing two counts of offences; Count I dealing in endangered wildlife species contrary to section 92(2) of the *Wildlife Conservation and Management Act*, and Count II assault in resisting arrest contrary to section 103(a) of the *National Police Service Act* No. 11A of 2011.
2. After taking plea the applicant applied and was granted a bond of one million with one surety.
3. It is this decision that the applicant is challenging. He claims that the amount is unreasonable and/or excessive considering the charges he is facing. Since the grant of bail/bond, he is still in custody and has been unable to meet the terms of bail/bond imposed. He urged the court to grant the orders sought.
4. I have considered the application, the arguments made in support of the application, the rival arguments by the respondent and the applicable law. The matter for consideration is whether the orders sought should be reviewed.
5. In granting bail, the court must also ensure that bail or bond terms must not be excessive or unreasonable and should not be far greater than what is necessary to ensure or guarantee the accused person's appearance before the court. Where this is the case, it would be tantamount to a denial of bail, a right that is enshrined in *the Constitution* and the Criminal Procedure Code as outlined above. This position was expounded in the case of Taiko Kitende Muinya [2010] e-KLR.



6. The Bail and Bond Policy Guidelines on page 9 paragraph 3.1. (d) underpins the right to reasonable Bail and Bond terms. Conversely, bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Secondly, bail or bond conditions should be appropriate to the offence committed and consider the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by reference to the facts and circumstances prevailing in each case. The above position has been enunciated in various decisions by the courts as in the case of Andrew Young Otieno vs. Republic (2017) eKLR.
7. In this case, the court found it fit to admit the applicant to a bond. The inference is that he has been able to raise the bond terms granted. This amounts to a changed circumstance. The purpose of bail/ bond is to ensure the accused attends court. However, bond terms should not be so low as to entice the applicant to abscond.
8. The upshot of the above is that I am satisfied that the trial magistrate exercised her discretion judiciously and hereby dismiss the application for bond review.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 18TH DAY OF NOVEMBER 2024

D. KAVEDZA

JUDGE

