



REPUBLIC OF KENYA



**Mwangi v Republic (Criminal Revision E067 of 2024)
[2024] KEHC 14492 (KLR) (18 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14492 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E067 OF 2024
DR KAVEDZA, J
NOVEMBER 18, 2024**

BETWEEN

BEN MUIRU MWANGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant with another not before this court is facing charges of dealing in endangered wildlife species contrary to section 92(2) of the [Wildlife Conservation and Management Act](#). After taking plea, he was denied bond while his co accused was granted a bond of Kshs. 500,000 with one surety of a similar amount.
2. He has filed the notice of motion dated 16th September 2024, seeks a revision of the trial court's decision to deny him bond. The grounds raised are that he was denied bond only because he is a police officer. He has not interfered with witnesses, and undertakes to abide by the terms of bond set by the court.
3. I have considered the application, the arguments made in support of the application, the rival arguments by the respondent and the applicable law. For consideration is whether the applicant should be allowed bond/bail since he is a police officer.
4. In granting bail, the court must also ensure that bail or bond terms 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] eKLR.
5. 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 conditions should 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 Otiemo v Republic* (2017) eKLR.

6. In this case, the applicant is a police officer who has access to the witness. This access creates a significant likelihood that he may interfere with witnesses, potentially compromising the integrity of the proceedings. Additionally, it remains unclear how many of the witnesses are civilians, further complicating the situation and raising concerns about impartiality and undue influence.
7. The applicant to make the application for bail/bond review before the trial court once all the civilian witnesses have testified. He shall be at liberty to apply before the high court if the application is declined.

It is so ordered.

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

D. KAVEDZA

JUDGE

