



**Njoroge & another v Directorate of Criminal Investigations & 2 others (Miscellaneous Criminal Application E175 of 2024) [2024] KEHC 13871 (KLR) (Crim) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13871 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
MISCELLANEOUS CRIMINAL APPLICATION E175 OF 2024  
DR KAVEDZA, J  
NOVEMBER 7, 2024**

**BETWEEN**

**GEORGE WAKARIA NJOROGE ..... 1<sup>ST</sup> APPLICANT**

**LILIAN WANJIRU ..... 2<sup>ND</sup> APPLICANT**

**AND**

**DIRECTORATE OF CRIMINAL INVESTIGATIONS ..... 1<sup>ST</sup> RESPONDENT**

**INSPECTOR GENERAL OF POLICE ..... 2<sup>ND</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTIONS ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The applicants filed the present application dated 5<sup>th</sup> November 2024 pursuant to Articles 2, 10, 20, 21, 22, 23, 25, 27, 28, 29, 47, 48, 49, 50, 165, 258, and 259. The application is supported by an affidavit sworn by the 1<sup>st</sup> applicant of similar date.
2. The applicants are Directors of Omnicare Medical, trading as “Body by Design,” described unsettling sequence of events involving the medical facility. It was averred that Omnicare has been providing licensed surgical cosmetic procedures for seven years, without a single fatality occurring at the facility. However, when a patient who had undergone a procedure at Omnicare passed away at Nairobi Hospital, social media erupted with unverified claims blaming the operation for the death.
3. Following this incident, on 31st October 2024, the Kenya Medical Practitioners and Dentists Council conducted a rapid inspection of Omnicare, late at night. The Council was accompanied by politicians and a group described as unruly “goons.” Despite Omnicare’s request to reschedule the inspection for security reasons, the facility was closed down that night. This abrupt shutdown, particularly given the intimidating crowd involved, left the 1<sup>st</sup> applicant and staff deeply concerned for their safety.



4. The 1<sup>st</sup> applicant emphasized that the directors have never been summoned by any investigative agency or accused of any wrongdoing, nor had any incident of criminal conduct occurred at Omnicare. The entry and search by the Council officers, in the presence of politicians and agitators, was perceived as a violation of due process. CCTV footage from the night supports these claims, capturing the tense scene as it unfolded.
5. The applicants claim that the atmosphere of intimidation has led them to fear arbitrary arrest, with their rights to liberty and due process potentially under threat. The applicants are apprehensive that the Council's actions could open the door for an unjust investigation, risking their freedom on unfounded claims. Moreover, they worry that the powers of arrest by the Council and police could be misused to intimidate, harass, and curtail their freedoms without just cause.
6. They have maintained their willingness to cooperate with fair legal processes but insisted on a need for those processes to respect their fundamental rights. They prayed for the orders sought to be granted as the that the Respondents would not be prejudiced in any way.
7. At this juncture, the duty of this court is not to interrogate whether the applicants' apprehensions are genuine but rather, to protect their constitutional rights and fundamental freedoms guaranteed to all persons.
8. Article 49(1) of the Constitution states that an arrested person has the right to be released on bond or bail, on reasonable conditions, pending a charge or trial, unless there are compelling reasons not to be released. While the right to anticipatory bail or bond pending arrest is not specifically provided for by statute, there is no lacuna in the Constitution.
9. At this ex parte stage, I am only supposed to be satisfied, which I am, that unless the orders sought are granted, the applicant's right to liberty under Article 29 of the Constitution will be compromised.
10. Having considered the application, the supporting affidavit of the applicant, and the annexures thereto, I hereby order as follows:
  - i. The application is certified urgent.
  - ii. The applicants herein are each admitted to anticipatory bail in the sum of Kenya Shillings One Hundred Thousand (Kshs. 100,000) to be deposited in court.
  - iii. For the avoidance of doubt, the respondents are at liberty to investigate or charge the applicants for any criminal conduct. However, they shall not arrest or detain the applicants in view of order (ii) above or until further orders of the court.
  - iv. The applicants' advocates are further directed to escort the applicants to the offices of the 1<sup>st</sup> and 2<sup>nd</sup> respondents for questioning and/or interrogation within seven (7) days from the date hereof and not later than 15<sup>th</sup> November 2024.
  - v. Upon the conclusion of investigations, and if a decision to charge the applicants has been made, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents shall not arrest or detain the applicants but they shall be informed of the court where they are to appear for plea taking.
  - vi. Order (v) shall remain in force until plea has been taken and the trial court has set new bail/bond terms in which case the orders of this court shall lapse.

**RULING DATED AND DELIVERED IN THE ABSENCE OF PARTIES ON THIS 7<sup>TH</sup> DAY OF NOVEMBER 2024.**



**D. KAVEDZA**  
**JUDGE**

