



**Morema v Republic (Criminal Revision E020 of 2025)
[2025] KEHC 15506 (KLR) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15506 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL REVISION E020 OF 2025
JM NANG'EA, J
OCTOBER 30, 2025**

BETWEEN

BENARD SANI MOREMA APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. By Notice of Motion dated 13th October 2025, the Applicant urges the court to call for and examine the record of the lower court (Nakuru Chief Magistrate's Criminal Case No. E3092 of 2022) to satisfy itself as to the correctness, legality or propriety thereof. The Applicant wants the court to reinstate him to bond/bail terms previously set by the trial court.
2. The Court is told that the bond/bail was cancelled despite the Applicant's presence in court albeit, virtually. The cancellation is said to have been made without notice to the cash bail depositor contrary to established legal principles. The Applicant was also ordered to be arrested.
3. The Application is brought pursuant to the provisions of Article 165(6) & (7) of *the Constitution* of Kenya 2010 as well as Sections 362 and 364 of the Criminal Procedure Code. In exercise of its supervisory function of subordinate courts, this court is empowered by the stated constitutional and legal provisions to call for and examine the lower court's record with a view to satisfying itself as to the correctness, legality or propriety of an order or decision made.
4. I have perused the lower court's record. The Applicant failed to appear physically in court on 16/9/2025 when the case was scheduled for ruling on whether or not he would be called upon to offer his defence or he would be acquitted of the offence charged pursuant to Section 210 of the Criminal Procedure Code. Through his Advocate (Mr. Bore), he explained that he could only appear virtually since his employer had declined to give him a day off to appear in court.



5. The Prosecution Counsel (Mr. Macharia) is recorded to have observed that the reason was not sufficient for the Applicant's non-attendance considering that the matter was coming up for a ruling. The trial magistrate (A. P. Ndege – Senior Principal Magistrate) agreed while noting that court attendance takes priority over any other circumstances. The court proceeded to cancel the Applicant's cash bail of Kshs. 10,000/= which was ordered forfeited to the State. A warrant for arrest of the Applicant was also issued.
6. In this era of virtual proceedings, litigants including persons undergoing criminal trials may opt to appear in court virtually unless otherwise directed by the court because of challenges that may be encountered if the litigant does not physically attend court.
7. In this case, the learned trial magistrate seemed to require the Applicant's physical attendance because of the scheduled ruling. The Applicant expressed difficulty to appear as he was in Kisumu, about 200km away from Nakuru. The court was not convinced and cancelled his cash bail while also issuing a warrant for his arrest.
8. In my view, the Applicant may still appear before the trial court and seek review of its orders. That court has jurisdiction to reinstate the cash bail and cancel the warrant of arrest. If the Applicant is unsuccessful, he has the remedy of approaching this court by appealing the learned trial magistrate's orders.
9. It is accordingly directed.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 30TH DAY OF OCTOBER, 2025.

J. M. NANG'EA

JUDGE.

