

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL REVISION NO. E087 OF 2025

HUSSEIN SHEIKH
ABDULLAHI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING.

1. Before the trial court, the applicant is charged with one count of obtaining money by false pretences contrary to section 313 of the Penal Code and five counts of making a false document contrary to section 347(a) as read with section 349 of the Penal Code. During the course of the trial, the applicant failed to attend court on 2nd July 2025, following which the trial magistrate cancelled his bond and issued a warrant of arrest against him on the same date.
2. Aggrieved by those orders, the applicant filed a notice of motion dated 3rd July 2025 seeking revision of the orders made on 2nd July 2025 cancelling his bond and issuing the warrant of arrest. He contends that he had been admitted to bond in the sum of Kshs 3,000,000 and that prior to his release he was treated for bronchitis at the Prison Health Centre and at Kenyatta National Hospital. He further states that he has since been diagnosed with splenitis and continues to receive medical care. The applicant explains that on 2nd July 2025 he was unable to attend court due to a scheduled appointment at Kenyatta National Hospital, and that he informed his counsel, who in turn notified the trial court

and placed medical documents before it. Despite this explanation, the trial court cancelled his bond and declared him an absconder.

3. This court's revisionary jurisdiction is conferred by section 362 of the Criminal Procedure Code, which empowers the High Court to examine the record of criminal proceedings before a subordinate court in order to satisfy itself as to the correctness, legality, or propriety of any order and the regularity of the proceedings.
4. Upon invoking that jurisdiction, this court directed the investigating officer to verify the medical documents relied upon by the applicant. By a letter dated 7th August 2025 from Kenyatta National Hospital, it was confirmed that the medical documents were authentic and that the applicant was indeed at the facility on the material date. The explanation advanced for the applicant's absence was therefore reasonable and justified.
5. The record of the trial court shows that on 2nd July 2025, when the matter was called out, the applicant was absent, and counsel informed the court that the applicant was unwell. The trial court, noting that no medical documents had been furnished at that time, proceeded to cancel the bond and issue a warrant of arrest.
6. While the trial court was entitled to seek clarification on the explanation given, the cancellation of bond and issuance of a warrant of arrest, without first directing verification of the medical explanation, amounted to a precipitate exercise of discretion. In the circumstances, the applicant was denied a reasonable opportunity to substantiate his explanation, resulting in an unjustified interference with his right to a fair trial under Article 50 of the Constitution.

7. In the premises, the application is allowed. The orders of the trial court issued on 2nd July 2025 cancelling the applicant's bond are hereby set aside, and the warrant of arrest issued against the applicant on the same date is vacated. The applicant's bond is reinstated on the terms previously set by the trial court.

Orders accordingly.

**Ruling dated and delivered virtually this 17th day of
December 2025**

**D. KAVEDZA
JUDGE**

ORIGINAL