

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
MISC. CRIMINAL REVISION NO. E073 OF 2025

PETER KIPROTICH YEGON.....
APPLICANT

- V E R S U S -

REPUBLIC.....RESPONDEN
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RULING

1. The proceedings relating to ***Kericho C.M.C.CR.C No.E2581 of 2023, Republic -vs- Vincent Kimutai alias Emmanuel & 6 others*** was placed before this Court for perusal and examination under Section 362 and 364 of the Criminal Procedure Code.

2. This Court is mandated to examine the proceedings before the Subordinate Court in exercise of its supervisory power of Revision to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of any such Subordinate Court.

3. I have examined the aforesaid record and its apparent that one ***Yegon Peter Kiprotich*** stood as surety for the 2nd

Accused namely: **Edwin Kiplangat alias Law Courts** and offered his Payslip as security.

4. The Accused, the Applicant herein stood surety for absconded. On 26th November, 2025, **Hon. Munguti, Learned Senior Principal Magistrate** committed the Applicant to imprisonment indefinitely until he produced the Accused Person.
5. It is obvious that the decision taken by the **Learned Senior Principal Magistrate** was made Contrary to Section 131 (2) of the Criminal Procedure Code. There is no doubt that the applicant offered his Payslip as security. The Applicant was never issued with a Notice to Show Cause before being ordered to remain in custody.
6. It is also apparent that no inquiry was conducted and the Applicant asked to explain his inability to trace the Accused who absconded.
7. No proceedings for forfeiture nor attempt to recover the penalty through attachment, which is the mandatory first step before imprisonment were done.

8. Indefinite committal meted out against the applicant is
Contrary to Section 131 (4) which expressly limits
imprisonment term to not more than six (6) months and only
after forfeiture recovery mechanisms fail.
9. It is clear that the order directing **Yegon Peter Kiprotich** to
remain in custody must be set aside. Consequently, the
order issued on 26th November, 2025 is set aside and the
applicant namely:- **Yegon Peter Kiprotich** should be set
free forthwith. The law pertaining to dealing with sureties
i.e. **Section 131 of the Criminal Procedure Code** should
be strictly be followed while dealing with the Applicant going
forward.

**Dated, signed and delivered at Kericho this 19th day
of December, 2025.**

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**J. K. SERGON
JUDGE**