



Gituku v Director of Criminal Investigations (Transnational Organised Crime Unit) (Criminal Miscellaneous Application E104 of 2025) [2026] KEHC 990 (KLR) (28 January 2026) (Ruling)

Neutral citation: [2026] KEHC 990 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL MISCELLANEOUS APPLICATION E104 OF 2025
DO CHEPKWONY, J
JANUARY 28, 2026**

BETWEEN

EDWARD KAMAU GITUKU APPLICANT

AND

DIRECTOR OF CRIMINAL INVESTIGATIONS (TRANSNATIONAL ORGANISED CRIME UNIT) RESPONDENT

RULING

1. This matter has been placed before this Court for directions on a Notice of Motion application dated 29th September, 2025, the same having been transferred from the Criminal Division of the High Court in Nairobi on 7th October, 2025 for want of territorial jurisdiction.
2. Just like Hon. Justice Kimondo, I have perused the said application and confirm that the Applicant is basically seeking this Court to call for and examine the Record of Proceedings and Ruling in Miscellaneous Criminal Application No.E498 of 2025 at Kahawa Law Courts and revise, vary and or set aside the custodial order issued on 26th September, 2025 directing that he be detained at Muthaiga Police Station for ten (10) days. The Applicant has also sought that this Court admits him to bail/bond on reasonable terms pending further investigations or trial.
3. It is worth noting that neither the Applicant nor his counsel are in attendance before this Court. However, learned counsel for the Respondent, M/S Murriu, who is in attendance has submitted that her inquiry on the status of the trial Court's matter has revealed that the Applicant, Edward Kamau Gituku was arraigned in court on 2nd October, 2025 and the Miscellaneous Application that gave rise to this application has since been closed. M/S Murriu then submitted that since there is an active case in respect of the Applicant before the Kahawa Law Courts, being Criminal Case No.E106 of 2025, the Miscellaneous Application before this Court has been overtaken by events and the prayers sought spent. She has urged the court to consider closing this file in view of her findings.



4. Having listened to counsel for the Respondent/State, and having noted that neither the Applicant nor his counsel are in attendance to respond to the submissions by the Respondent's Counsel, it is this Court's view that the prayers sought are about liberty, which, if the Applicant was still in custody, he and or his counsel would not have failed to attend court in following up on the same to ensure that the situation is reviewed and the Applicant's right to liberty addressed and if necessary, restored. Afterall, this Court has a duty to protect the rights of the citizens, throughout the criminal process by ensuring that they are accorded a fair trial. Fair trial abhors recourse to incarceration, where there is no justification.
5. It is also the courts view that if indeed there is already criminal proceedings against the Applicant vide Kahawa Criminal Case No.E498 of 2025, then his rights ought to be addressed therein as this would be the substantive matter.
6. Therefore, in view of the aforementioned analysis, this Court finds that the Notice of Motion application dated 29th September, 2025 has been overtaken by events and this application is therefore spent.
7. In the resultant, this file is marked as closed.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 28TH DAY OF JANUARY , 2026.

D. O. CHEPKWONY

JUDGE

In the interest of:

No appearance for the Applicant

M/S Murriu counsel for Respondent

Court Assistant – Martin/Sakina

