

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MAKADARA**  
**CRIMINAL DIVISION**

**MISC. CRIMINAL APPLICATION NO E134 OF 2025**

**TANG JIANG CHENG .....**

**APPLICANT**

**VERSUS**

**REPUBLIC .....**

**RESPONDENT**

**RULING**

1. By an originating notice of motion dated 28<sup>th</sup> may 2025 originally filed at the High Court Criminal registry at Milimani the applicant sought the following orders:
  - a) That the court be pleased to reduce the bail required by the Makadara Chief Magistrates Court by setting aside the condition that he deposit his passport with the court.
  - b) That as an alternative this court be pleased to reduce the bail required by the said court as to permit the applicant to use the passport in connection with his life for four days a week and surrender it to the investigating officer every Friday and collect it from him every Monday.
2. The application was supported by the affidavit sworn by the applicant in which it was deposed that he was granted bond by the trials court the terms of which he complied and was duly released from custody. That

one of the said terms was that he deposits his passport in court.

3. It was deposed that the compliant before the lower court and the applicant are shareholders in a company known as Eabest limited where each hold 400 shares while a third share holder Panlin holds 200 share.
4. That the applicant and the complainant have been involved in litigation with each other since 2018 and that there is a suit now pending in the Commercial and Tax Division of the High Court in which the complainant is seeking money from him , wherein he has filed a counter claim.
5. It was contended that the term that he deposit his passport in court has reduced his earning capacity as he is unable to get business from some customers as they do not trust him with their stock for not having an identity card or passport and that the business that he deals with the bank requires him to produce his identity card from time to time which he is unable to do.
6. That he filed an application for variation of the bond terms so as to be allowed to use his passport always or for four days every week before the trial court which declined to hear the same .
7. That he has lived in Kenya since 2012 and between 2014 -2018 has been running a hardware business known as Eabest limited of which the compliant, Mr. Du Chang and one Panlin are the sole shareholders and directors . He is married with one child and that his wife

works in Kenya and the daughter goes to a nursery school in Nairobi and that for one to travel by air within and outside Kenya, one needs to produce to the airline an identity or passport which is also required to book a hotel accommodation and or to withdraw money from the bank

8. When this matter came up for hearing , Ms. Kariuki for the prosecution stated that there was no allegation by the applicant that the order made by the court was in error and that the passport was ordered to be deposited in court since the applicant is a foreigner and that he can get a letter of confirmation from court that the said passport is deposited in court.
9. Mr. kuria for the applicant submitted that the applicant business involves traveling from town to town and was therefore unable to transact business .

### **DETERMINATION**

- 10.** When granting bail/bond to the applicant herein, the court noted that whereas the applicant was on a pre-charge bond of kshs 500,000 having been charge d with fifteen counts of which one had a monetary value of kshs 100,000,000 which to the court were serious counts and further noted that the applicant was a foreign national of Chinese descent , the same had in addition to the bond of kshs 10 million or in the alternative cash bail of kshs 5,000,000, had to deposit his passport in court until the case is finalized.

11. The appellant on 27<sup>th</sup> January 2025 filed a similar application to the one before this court for review of the bond terms which application the court dismissed on 13<sup>th</sup> may 2025, so technically and procedurally the applicant should have filed the application herein challenging the lower courts decision in declining to review the order on bond and not the original ruling.
12. Be that as it may and since the application before the court challenges the original decision, I shall proceed to determine the same thus.
13. In this matter the applicant was granted bond by the trial court on terms and conditions , one of which was that the same deposit his passport with the court. There is no allegation made by the applicant to show that the said bond terms are unreasonable taking into account the fact that the applicant is a foreigner. The said bond terms are not excessive so as to be interfered with by this court on revision. Further the applicant has not pleaded any change in the circumstances noting that had it not been for this application the court had expedited the hearing herein and fixed the matter for hearing on 29<sup>th</sup> January 2026.
14. Whereas the applicant has made allegation that he is unable to transact in the absence of his passports , those allegations were not supported by any evidence and therefore find and hold that the same has not satisfied the grounds upon which this court would interfere with the trial courts exercise of discretion in

setting bond terms noting that it is only the trial court which is best suited to determine if the said orders had caused the applicant hardship .

15. I therefore find no merit in the application herein save that the trial court shall write a letter to whom it concerns in favour of the applicant confirming that the applicant's passport is held in court.

16. In view of the ruling herein and having noted that the court did not proceed with the trial , a copy of this ruling together with the lower court file to be placed before the trial court immediately for the purposes of fixing a nearer hearing date. And it is ordered.

Dated signed and delivered this 21<sup>st</sup> day of April 2026

**J .Wakiaga**

**JUDGE**

**In the presence of :**

Ms. Kariuki for the state

Court assistant - Gitonga