

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL REVISION NO. E048 OF 2026

BEATRICE
APPLICANT

WANGARI.....

VERSUS

REPUBLIC.....
RESPONDENT

RULING

1. On 4th May 2026, the applicant was presented before the Deputy Registrar sitting at Kibera for the hearing of an application by the respondent seeking orders to detain her in police custody for fourteen days to enable the Directorate of Criminal Investigations (DCI) complete investigations into the death of Dr. Job Obwaka. By a ruling delivered on the same day, the court allowed the application and ordered that the applicant be detained until 14th May 2026.
2. Aggrieved by that decision, the applicant filed the present Notice of Motion dated 6th May 2026 under Articles 43(1)(a) and 49(1)(h) of the Constitution and sections 123, 124, 362 and 364 of the Criminal Procedure Code seeking revision of the detention order and her release on reasonable bail terms pending charge or trial.
3. The application is supported by the applicant's affidavit sworn on even date. She avers that she was arrested on 1st May 2026 at The Nairobi Hospital following the death of Dr. Job Obwaka and has since fully cooperated with investigators. She states that she recorded a witness statement and granted the DCI unrestricted access to her residence and motor vehicle for purposes of investigation and searches.

4. The applicant further contends that, despite her constitutional right to bail under Article 49(1)(h) of the Constitution, the lower court ordered her continued detention. She relies on a post-mortem conducted on 6th May 2026 at Lee Funeral Home in the presence of the Chief Government Pathologist and other pathologists representing interested parties. According to the post-mortem report dated 5th May 2026, the pathologists unanimously concluded that the deceased died from cardiac arrest arising from pre-existing cardiac conditions.
5. The applicant asserts that the post-mortem findings negate the respondent's suspicion of poisoning and render her continued detention unreasonable, oppressive and unsupported by evidence. She maintains that she remains available to cooperate with investigations and urges the court to intervene and safeguard her constitutional right to liberty by ordering her release on reasonable bail terms.
6. The respondent did not oppose the application.
7. I have considered the application, the affidavit in support, and the applicable law. For consideration is whether the court should grant the orders sought.
8. The applicant challenges the order of the trial court detaining her for ten (10) days pending investigations. Article 49(1)(g) of the Constitution provides that an arrested person has the right:
“at the first court appearance, to be charged or informed of the reason for the detention continuing, or to be released.”
9. The trial court, in exercising its discretion, considered the constitutional provisions and the reasons advanced by the investigating officer in support of continued detention. It is settled that this court, in revisionary jurisdiction, ought not to

substitute its discretion for that of the trial court merely because it may have arrived at a different conclusion. The applicant must demonstrate illegality, impropriety, irregularity, or incorrectness in the impugned order within the meaning of section 362 of the Criminal Procedure Code.

10. The material placed before the trial court disclosed that investigations arose from the death of Dr. Job Obwaka and that the prosecution sought additional time to await toxicology analysis to conclude investigations. However, the applicant contended that she had fully cooperated with investigators by recording a statement and granting unrestricted access to her residence and motor vehicle for purposes of searches and investigations. Further, a post-mortem examination conducted in the presence of the Chief Government Pathologist and other pathologists representing interested parties concluded that the deceased died from cardiac arrest arising from pre-existing cardiac conditions.

11. In **Betty Jemutai Kimeiywa v Republic [2018] eKLR**, the court recognised that continued detention before charge may be justified where an arrested person is informed of the reasons necessitating such detention. Equally instructive is the decision in **Sudi Oscar Kipchumba v Republic (Through National Cohesion & Integration Commission) [2020] eKLR**, where the court held:

“The first consideration is that the state must demonstrate good faith and must have reasonable grounds to believe that the continued detention of the individual without a charge being preferred whether provisional or otherwise is inevitable due to existing exceptional circumstances.”

12. The court further held that continued detention without charge must constitute “**the least restrictive action**” available in balancing the rights of the arrested person, public interest, preservation of the administration of justice, and the interests of victims. While this court appreciates that investigations into sudden death are sensitive and must be undertaken thoroughly, the continued detention of the applicant in the present circumstances cannot be said to be proportionate. The post-mortem findings substantially weakened the basis upon which continued detention was sought, and no material was placed before this court demonstrating that the applicant had failed to cooperate with investigators or posed a flight risk.

13. Accordingly, the order detaining the applicant is hereby set aside and substituted with an order admitting the applicant **Beatrice Wangari to personal bond of Kenya Shillings One Hundred Thousand (Kshs. 100,000)** pending completion of the investigations. The applicant shall report to the Investigating Officer on a daily basis pending conclusion of the Investigations.

Orders accordingly.

**Ruling dated and delivered virtually this 12th day of May
2026**

**D. KAVEDZA
JUDGE**