



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Maluvi v Republic (Criminal Revision E028 of 2025)  
[2025] KEHC 5163 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5163 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E028 OF 2025**

**DR KAVEDZA, J**

**APRIL 29, 2025**

**BETWEEN**

**ANDREW ANDAI MALUVI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before the subordinate court, the applicant is facing a charge of stealing contrary to section 268 (1) as read with section 275 of the *Penal Code*. He pleaded not guilty and was admitted to a bond of Kshs. 500,000 or a cash bail of a similar amount.
2. He made an application for review of the bond terms imposed. On 23<sup>rd</sup> December 2024, the trial court review the bond terms to Kshs. 400,000 with a surety of a similar amount or in the alternative a cash bail of Kshs. 400,000. On 12<sup>th</sup> February the trial court reviewed the terms further to a bond of Kshs. 300,000 with one surety of a similar amount or in the alternative a cash bail of Kshs. 250,000
3. Vide an application dated 12<sup>th</sup> March 2025, he sought a review of the bond terms imposed. The application is supported by an affidavit sworn by the applicant's advocate Amutabi Betty Nambala of similar date. The averments made in support of the application are that the applicant has tried his best to meet the terms set by the court to no avail. He is the sole breadwinner in his family. His health has deteriorated since his incarceration. He has a relative willing to stand surety. He urged the court to review the bail/bond terms imposed.
4. The application was canvassed by way of oral submissions which have been duly considered with Ms. Nambale and Mr. Chebii for the respondent making submissions for the application and in opposition to, respectively.
5. I have considered the application, the arguments made and the applicable law. For consideration is whether the orders sought should be reviewed.



6. In granting bail, the court must also ensure that bail or bond terms must not be excessive or unreasonable and should not be far greater than what is necessary to ensure or guarantee the accused person's appearance before the court. Where this is the case, it would be tantamount to a denial of bail, a right that is enshrined in *the Constitution* and the *Criminal Procedure Code* as outlined above. This position was expounded in the case of Taiko Kitende Muinya [2010] e-KLR.
7. The Bail and Bond Policy Guidelines on page 9 paragraph 3.1. (d) underpins the right to reasonable Bail and Bond terms. Conversely, bail or bond amounts should not be so low that the accused person would be enticed into forfeiting the bail or bond amount and fleeing. Secondly, bail or bond conditions should be appropriate to the offence committed and consider the personal circumstances of the accused person. In the circumstances, what is reasonable will be determined by reference to the facts and circumstances prevailing in each case. The above position has been enunciated in various decisions by the courts as in the case of *Andrew Young Otieno vs. Republic* (2017) eKLR.
8. In the present matter, the court deemed it appropriate to admit the applicant to bond in the sum of Kshs. 300,000 with one surety of a similar amount and in the alternative a cash bail of Kshs. 200,000. Implicit in this is that the applicant was deemed capable of meeting the said terms. It is trite law that the primary purpose of bail or bond is to secure the accused's attendance in court throughout the trial. Upon perusal of the record, it is noted that no pre-bail report was availed to guide the court in determining suitable and proportionate bond terms.
9. Having considered the nature of the charge and the averments on record, including the charge sheet indicating the value of the subject property is approximately Kshs. 772,330, I find that the bond set at Kshs. 300,000 may be reviewed to secure the applicant's release and to ensure his attendance in court. Accordingly, I hereby vary the bond terms as follows:
  - I. The bond of Kshs. 300,000 in addition to one surety imposed by the trial court is substituted with a bond of Kshs.200,000 with a surety of a similar amount.
  - II. In the alternative, the cash of Kshs. 250,000 in addition to one contact person imposed by the trial court is substituted with a cash bail of Kshs. 100,000 with one contact person.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 29<sup>TH</sup> DAY OF APRIL 2025**

**D. KAVEDZA**

**JUDGE**

In the presence of:

Ms. Nambale for the Applicant

Mr. Chebii for the Respondent

Tonny Court Assistant.

