



**Tarbei v Republic (Criminal Revision E086 of 2025)  
[2025] KEHC 12203 (KLR) (28 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 12203 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E086 OF 2025  
DR KAVEDZA, J  
AUGUST 28, 2025**

**BETWEEN**

**MESHACK KIPLETING TARBEI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant is currently facing ten different cases before the Chief Magistrate’s Court at Kibera for the offence of obtaining money by false pretences contrary to section 313 of the *Penal Code*.
2. On 28<sup>th</sup> May 2025, the trial court delivered a ruling declining to release the Applicant on bail. Aggrieved by that decision, the Applicant filed the present revision application dated 27<sup>th</sup> June 2025 seeking that this Court vacates the ruling and admits him to reasonable bail terms. He argues that the trial court failed to consider the pre-bail report and the submissions made on his behalf, and therefore arrived at an erroneous conclusion.
3. The applicant asks the court to exercise powers of revision conferred on the court by article 165 (6) and (7) of the 2010 *Constitution of Kenya* and sections 362 and 364 (1) (b) and 2 of the *Criminal Procedure Code* (Cap 75) Laws of Kenya. Article 165 (6) and (7) clothe the High Court with supervisory powers over subordinate courts in the following terms:

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- (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.



(7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.”

4. Section 362, of the *Criminal Procedure Code* provides that:

“The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying 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.”

5. I have carefully considered the application and the record of the trial court. The ruling of the learned magistrate shows that the court had the benefit of both the pre-bail report and counsel’s submissions. The primary purpose of a bail report is to provide the court with comprehensive information about an accused person’s background and circumstances to assist the court in determining whether to grant bail and, if so, on what conditions. However, the existence of a bail report does not bind the court. The court retains ultimate discretion to assess all the circumstances and determine whether bail should be granted.
6. In this case, the trial court, in declining bail, expressly noted that the Applicant is facing ten different cases of obtaining money by false pretences. Counsel for the Applicant acknowledged that while bond had been granted in four of the cases, it was practically difficult for the Applicant to execute bond terms in each and every matter. On that basis, the trial court found that the Applicant was not a suitable candidate for release on bail.
7. In my view, the trial court exercised its discretion properly. The multiplicity of cases raises legitimate concerns about the Applicant’s likelihood to attend court as required and the risk of reoffending while on release. The fact that he has been unable to take advantage of bond terms already granted further supports the finding that bail would not serve its intended purpose in ensuring attendance.
8. This Court is not persuaded that the trial court misdirected itself in law or in fact. No illegality, impropriety, or incorrectness has been shown to justify the exercise of this Court’s revisionary powers.
9. In the premises, the application is without merit and is hereby dismissed.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY IN THE ABSENCE OF THE PARTIES THIS  
28<sup>TH</sup> DAY OF AUGUST 2025**

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**D. KAVEDZA**

**JUDGE**

