



REPUBLIC OF KENYA



KENYA LAW
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Mwangangi v Republic; Umoja Flour Mills (Interested Party) (Miscellaneous Application E013 of 2024) [2025] KEHC 11878 (KLR) (7 August 2025) (Ruling)

Neutral citation: [2025] KEHC 11878 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
MISCELLANEOUS APPLICATION E013 OF 2024**

**H NAMISI, J
AUGUST 7, 2025**

BETWEEN

ROSE MUIA MWANGANGI APPLICANT

AND

REPUBLIC RESPONDENT

AND

UMOJA FLOUR MILLS INTERESTED PARTY

RULING

1. Before the Court is a Notice of Motion dated 20 January 2023 seeking the following orders:
 - i. Spent
 - ii. An order be and is hereby issued reviewing the orders issued by Hon. Stella Atambo, Chief Magistrate, Thika Law Courts of the Applicant who was charged on 9 January 2023 and admitted to bail/bond terms on the 16 January 2023;
 - iii. An Order be and is hereby issued to have the charges made against the accused person quashed, stayed and/or withdrawn and the accused discharged unconditionally;
 - iv. That the Officer Commanding Station (OCS) Makongeni Police Station be summoned to Court to produce documentary evidence, investigation report, Occurrence Book and answer to the complaint of use of excessive force in arresting the accused person;
 - v. That the accused person be admitted to bail on reasonable cash bail and/or bond terms pending the hearing of the instant application in the interests of justice;
 - vi. In the alternative, this Honourable Court be pleased to admit the accused person on free bond pending the hearing and determination of the instant application;



- vii. Such other and/or further orders do issue in the interests of justice and fair trial.
2. In the Supporting Affidavit, the Applicant avers that on 6 January 2023, at around 1200 hours, several people stormed her house, without identifying themselves. They proceeded to arrest the Applicant without production of any Summons or warrants of arrest. In the melee, the unidentified individuals brandished guns, used threats and excessive force against the Applicant's family members, and even threatened to arrest the Applicant's daughter when she tried to block the Applicant's arrest.
 3. The Applicant further avers that it wasn't until 9 January 2023 when she was presented in Court and formally charged with the offence of stealing by servant contrary to section 281 of the *Penal Code*. The particulars are that on diverse dates between 1 January 2015 and 3 August 2023, at Engen Area of Makongeni Thika West sub-County within Kiambu County, being an employee of the Umoja Flour Mills, the Applicant stole Kshs 13,628,255 the property of Umoja Flour Mills, which came into her possession by virtue of her employment. On taking plea, the Court deferred the bond application and later on 16 January 2023 imposed a bond of Kshs 3 million with two sureties of like sum or cash bail of Kshs 4 million. It is the Applicant's contention that the same is very stiff and punitive, and she cannot afford it.
 4. The Applicant states that she left employment in August 2022 and is currently unemployed, with no means of raising the bail terms granted by the Court. She argues that she has a fixed abode at Landless estate and is not a flight risk.
 5. The Respondent filed a Replying Affidavit sworn by PC Geoffrey Waweru of Makongeni Police Station. He avers that when they visited the home of the Applicant in order to execute the arrest, the Applicant discharged wild dogs to attack the Police Officers and locked herself in the house, prompting the Officers to call for support. He further avers that since the Court granted the bail terms, the Applicant has embarked on a journey of maligning the Officers, instead of processing the bail. The Applicant has filed complaints with the National Police Services Internal Affairs Unit, the County Commandant Kiambu County and the Independent Policing Authority, complaining about the conduct of the investigations and of various Officers. The Respondent avers that the Applicant is a serial abuser of government agencies and is more focussed on side shows such as making baseless reports to government agencies.
 6. The Respondent contends that the bond terms granted by the trial court are reasonable and commensurate to the offence committed. This application, therefore, is premature and intended to stall the proceedings at the lower court.
 7. The Applicant filed a Further Affidavit sworn by Evelyne Mwangangi. She states that the bail terms set by the Court are way beyond the ability of the family. Another Affidavit sworn by the Applicant denies the allegations by the Respondent.
 8. The Application was canvassed by way of written submissions.

Analysis & Determination

9. The jurisdiction of this Court to review is donated by Section 362 of the Criminal Procedure Code which 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.”

10. The revisionary jurisdiction of the High Court was discussed by Odunga J in a persuasive decision of *Joseph Nduvi Mbuvi v Republic* [2019] eKLR:

“In my considered view, the object of the revisional jurisdiction of the High Court is to enable the high Court in appropriate cases, whether during the pendency of the proceedings in the subordinate court or at the conclusion of the proceedings to correct manifest irregularities or illegalities and give appropriate directions on the manner in which the trial, if still ongoing, should be proceeded with. In other words, the High Court’s revisionary jurisdiction includes ensuring that where the proceeding in the lower court has been legally derailed, necessary directions are given to bring the same back on track so that the trial proceeds towards its intended destination without hitches. Not only is the jurisdiction exercisable where the subordinate court has made a finding, sentence or order but goes on to state that it is also exercisable to determine the regularity of any proceedings of any such subordinate court as well.”

11. From the above provision, it is clear that the Court can only revise orders or decisions of the lower court if it is satisfied that the decision, order, or finding is tainted with illegality, errors of law, or impropriety or that there was an irregularity in the proceedings that gave rise to the impugned order, finding or decision.
12. The trial Court’s record shows that on 9 January 2023, the Applicant took plea and denied the charges preferred against her. The Applicant was charged with the offence of stealing by servant contrary to section 218 of the Penal Code and resisting arrest contrary to section 103(a) of the *National Police Service Act*. The trial court heard an application for bail pending trial. The Applicant was admitted to bond of Kshs 3 million with 2 sureties of similar amount each with alternative cash bail of Ksh 4 million.
13. On 6 February 2023, counsel for the Applicant sought a review of the bond/bail terms, arguing that that the family had struggled to raise the cash bail. Further, the Applicant stated that she suffers from a heart condition. In opposing the application, the Prosecution noted that it was hard for the investigating officer to apprehend the Applicant.
14. On 13 February 2023, the trial court, having considered the pre-bail report and the reasons advanced by the Applicant, reviewed the bond terms downwards to Kshs 2 million with surety of similar amount or alternative cash bail of Kshs 5 million. The trial court record shows that a release order was issued on 22 February 2023. In the circumstances, prayers (e) and (f) of the Application are spent.
15. Turning to the other prayers, I concur with the Respondent’s submissions that the office that is mandated to institute, continue and/or discontinue criminal charges is that of the Director of Public Prosecutions. Without a doubt, this Court cannot grant the orders sought. In the circumstances, the Application is unmeritorious and the same is hereby dismissed.

DATED AND DELIVERED AT THIKA THIS 7 DAY OF AUGUST 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered on virtual platform in the presence of:

Applicant: Mr. Mengich



Applicant Present

Respondent: N/A

Interested Party: Mr. Njoroge h/b Magana

Court Assistant: Lucy Mwangi

