


REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

**Review: 35/2026
Case Number: 2026-107037**

1. Reportable: No
2. Of interest to other judges: No
3. Revised


[REDACTED]
WRIGHT J
11 June 2026

In the matter between:

JANET HILDA MNCUBE

APPLICANT

and

REGIONAL COURT MAGISTRATE K PAGE N.O.

FIRST RESPONDENT

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS SECOND RESPONDENT

JUDGMENT

WRIGHT J and KARAM AJ

1. The applicant, Ms Mncube has launched an application for review under Rule 53 of the uniform rules. We sit as a bench constituted by ADJP Modiba for this application.
2. Ms Mncube was arrested on a charge of fraud. She was released on R5000 bail. On numerous occasions, when the case was postponed before the matter came up for trial, she duly reported to court and bail was extended. On 18 March 2026 the matter came up for trial.
3. The charge, of fraud against her employer, in an amount of R1.4m was read out by the prosecutor. At that point, the learned Magistrate, Mr K Page, expressly informed Ms Mncube, represented by an attorney, that if she was a first offender she faced a sentence of 15 years jail if found guilty and that the court could only deviate from that sentence for substantial and compelling reasons. This is correct, given that she was charged in terms of Section 51(2) of the Criminal Law Amendment Act 105 of 1997 (“the minimum sentence provisions”).
4. Ms Mncube pleaded guilty. She and her erstwhile attorney confirmed the plea. Ms Mncube confirmed the correctness of a statement read into the record by her erstwhile attorney. It is noteworthy that the services of an interpreter were utilised throughout the proceedings. Ms Mncube unequivocally acknowledged intentional wrongdoing, in the charged amount. In short, Ms Mncube had abused her position of trust as an employee of an hotel and caused R1.4m to be paid into her niece’s bank account instead of to those owed money by the hotel.
5. Ms Mncube was then found guilty as charged.
6. The state proved no previous convictions.

7. At that point, the erstwhile attorney for Ms Mncube asked for a postponement for a correctional supervision report and a probation officer's report.
8. Magistrate Page granted a postponement and then stated that as Ms Mncube had been convicted of a schedule 5 offence bail was “ *withdrawn* ” “ *unless the defence wishes to bring any application* ” regarding bail.
9. The erstwhile attorney indicated that he would like to apply for bail.
10. Magistrate Page informed Ms Mncube that she would need to show facts justifying her release in the interests of justice.
11. Ms Mncube was called to the witness stand and, having been duly sworn in, and led by her erstwhile attorney, stated her case for bail. She was then cross-examined by the prosecutor. Magistrate Page asked a few questions and there was no re-examination.
12. The state led no evidence.
13. After argument, judgment was then given on the bail application and bail was refused.
14. The case was postponed to 8 April 2026. On that day, Mr Baloyi the new and present attorney for Ms Mncube appeared. He stated that Ms Mncube was misled about the plea of guilty and he asked Magistrate Page to reverse the plea of guilty.
15. The prosecutor said that she wanted to oppose the application to reverse the plea of guilty.
16. Magistrate Page indicated that the application should be in writing.
17. The case was postponed to 23 June 2026, with Ms Mncube in custody.
18. In the present notice of motion it is sought to review the decision by Magistrate Page to “ *withdraw* ” bail. It is not expressly sought to review the subsequent

decision to refuse bail. The reinstatement of the original R5 000 bail is sought.

It is also sought to review the decision by Magistrate Page to postpone the case so as to allow the state to oppose the application to reverse the plea of guilty.

19. Under section 58 of the Criminal Procedure Act 51 of 1977 the release of a person on bail endures until verdict. Under the proviso to section 58, where a person, such as Ms Mncube, has been convicted of fraud in an amount over R500 000, as set out in schedule 5 to the Act, and she seeks an extension of bail, the court must take into account the fact of the conviction and the likely sentence to be imposed.

20. Describing bail as “ *withdrawn*” or “ *cancelled* ” in present circumstances is neither here nor there. Under section 58, bail ended on conviction. Ms Mncube, represented by an attorney, had her rights explained to her throughout. Ms Mncube and her attorney were given an opportunity immediately after conviction to apply for bail, which opportunity they used.

21. The argument that the state should not have been given an opportunity to oppose the application to reverse the guilty plea is idle. It is unthinkable that the state not be allowed to oppose the application or that it not be given an opportunity to do so.

22. It was sensible, if not necessary, that the application be brought in writing and on notice with an opportunity for the state to deliver an answering affidavit.

23. There is no room for the review of the decisions sought to be reviewed.

24. The NPA does not seek costs.

ORDER

1. The application is dismissed.



Wright J



pp Karam AJ

Heard on: 11 June 2026

Delivered on: 11 June 2026

Appearances:

For the Applicant: Mr Baloyi

Instructed by: Baloyi RD Attorneys

baloyirdattorneys@gmail.com

Second Respondent: Adv E Motala

Instructed by: NPA

emotala@npa.gov.za