



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 7 April 2026

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*Koopman v Minister of Police* (963/2022) [2026] ZASCA 45 (7 April 2026)

Today the Supreme Court of Appeal (SCA) granted an application brought by Ms Iris Koopman (the applicant) for the release from the obligation to furnish security for costs when she petitioned this Court in October 2022, and a declaration that Rule 49(13) of the Uniform Rules of Court (the Uniform Rules) does not apply to the prosecution of her appeal before the Full Court of the Gauteng Division of the High Court, Pretoria (the full court).

In 2015 Ms Koopman, an unemployed woman living in a shack in Kuruman in the Northern Cape, was arrested at her home without a warrant. She was detained at the Kathu police station with her seven-month-old infant, whom she was still breastfeeding, for approximately two days. The charge against her – common assault arising from an alleged incident two days before the arrest – was one her then-boyfriend had indicated he wished to withdraw before the arrest was even effected.

Ms Koopman sued the Minister of Police for damages for unlawful arrest and detention in the Gauteng Division of the High Court, Pretoria. The high court dismissed the action and refused leave to appeal. Ms Koopman petitioned the Supreme Court of Appeal (the SCA), which on 12 December 2022 granted her leave to appeal to the full court of the Gauteng Division of the high court Pretoria.

The appeal was delayed because the virtual trial recordings had not been preserved by the registrar. Once a hearing date before the full court was eventually allocated, neither party had raised the question of security for costs. Only shortly before the 7 May 2025 hearing did the Minister's office decline a request to waive the security requirement. Ms Koopman applied to the full court for release from any security obligation. The full court concluded that the question was not one for it to resolve and removed the appeal from the roll. Ms Koopman then brought this application before the SCA.

Rule 49(13)(a) of the Uniform Rules of Court (the Uniform Rules) requires a party granted leave to appeal by a high court judge to furnish security for the respondent's costs before a hearing date may be obtained. The question in this case was whether that obligation also arises when the SCA – not a high court judge – is the body that grants leave to appeal.

The SCA held that Rule 49(13) of the Uniform Rules does not apply in such circumstances. The reasoning proceeded from two textual anchors. First, the Uniform Rules define 'court' as the high court; the SCA falls outside that definition. An order by the SCA directing an appeal to the full court is therefore not an order of the 'court' as contemplated in Rule 49(13) of the Uniform Rules, and the consequences of that rule are not triggered. Second, Rule 9 of the Rules of the Supreme Court of Appeal (the SCA Rules) provides a complete and self-contained regime for security for costs in proceedings before the SCA: security arises only if the respondent requests it and the SCA makes an order. The Minister made no such request at the petition stage, and no order was made. No security obligation therefore arose.

The Court declined to follow an earlier full court decision, *Strouthos v Shear*, which had assumed – without analysing the applicable rules – that Rule 49(13) of the Uniform Rules applied whenever the

SCA granted leave to appeal to a full court. The SCA held that that assumption was unfounded. It preferred the reasoning of the full courts in *Dr Maureen Allem Incorporated v Baard* and *Maake and Others v Chemfit Finechemical (Pty) Ltd*, both of which had engaged directly with the text of the rules and reached the opposite conclusion.

The SCA additionally held that, even if Rule 49(13) of the Uniform Rules were found to apply, Ms Koopman would be entitled to be released from any security obligation. She is indigent and has no assets from which security could be furnished. Enforcing the requirement would permanently foreclose her appeal. That outcome would constitute an unjustifiable limitation of the constitutional right of access to courts under s 34 of the Constitution of the Republic of South Africa, 1996. Her grounds of appeal are substantive. The interaction of s 40(1)(q) of the Criminal Procedure Act 51 of 1977 read with s 3 of the Domestic Violence Act 116 of 1998, in the particular circumstances of the arrest, raises genuine and unresolved questions of law. The Minister of Police demonstrated no real prejudice, having raised the security issue only at the last moment after more than two years of appellate proceedings.

The SCA granted condonation for Ms Koopman's failure to raise the security issue when she petitioned this Court in 2022. It did not make an adverse costs order against the Minister of Police. Noting that the Minister's reliance on the decision in *Strouthos*, which was unreversed when the proceedings were instituted, was not without foundation and that the SCA had not previously clarified the position.

As a result, the SCA declared that Rule 49(13) of the Uniform Rules of Court does not apply to the prosecution of the applicant's appeal before the full court and that the applicant is not obliged to furnish security for costs in terms of that rule. The costs of the application are to be costs in the appeal before the full court.

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