



REPUBLIC OF KENYA



KENYA LAW
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**Kirimi v Republic (Criminal Appeal 103 of 2022)
[2022] KEHC 13300 (KLR) (29 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13300 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL APPEAL 103 OF 2022
EM MURIITHI, J
SEPTEMBER 29, 2022**

BETWEEN

MICHAEL KIRIMI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

RULING ON BOND PENDING APPEAL

1. By an application dated August 3, 2022 the applicant seeks an order for bail pending the hearing and determination of the application. In the grounds for the application, the applicant asserts constitutional rights to bail and his circumstances as breadwinner for his family and consequently a prejudice and regrettable harm that he will be occasioned by the incarceration.
2. Bail is opposed by the DPP who asserts that there no chance of success of the intended appeal as the accused was rightly convicted and there are no exceptional circumstances to warrant the grant of bail pending appeal; and that on account of the long sentence chances of absconding are high.
3. The accused was by the judgment of the trial court dated July 26, 2022 convicted for the offence of defilement contrary to section 8 (1) as read with 8 (4) of the [sexual offences Act](#) and subsequently sentenced to imprisonment for 15 years.
4. In [Jivraj Shah V R](#) [1986]KLR 605; [Mutua v R.](#) [1988] KLR 497; [Sono v R](#) [1972]EA 476 and [Dominic Karanja v R](#) [1986] 612, principles for grant of bail pending appeal have been established as:-
 - a. Whether there exists exceptional or unusual circumstances which justify grant of bail in the interest of justice;



- b. Exceptional circumstances exist where appeal has overwhelming chances of success or substantial merit in the appeal and that the sentence or substantial part of it will have been served before the appeal is heard; and
 - c. the good character of the applicant hardships his family or his ill health or an assertion that the applicant shall not abscond if released on bail are not exceptional or un usual circumstances.
5. Having considered the “memorandum of appeal,” the judgment and sentence of the trial court, this court does not find that there exists unusual or exceptional circumstances by way of overwhelming chances of success of the appeal or a prospect that the sentence or substantial part of it shall have been served by the time the appeal is heard.
6. Accordingly, the court does not find merit in the application for bail pending appeal, and the same is declined.
7. The appeal shall be set down for hearing on a date convenient to the counsel for the accused and for the DPP.

DATED AND DELIVERED THIS 29TH DAY OF SEPTEMBER, 2022.

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Ms. Nandwa for DPP.

Mr. Otieno C. for Appellant.

