



**REPUBLIC OF KENYA**

**High Court at Bungoma**

**Criminal Appeal 218 & 220 of 2012**

**JOHANNES MATIKO :::1ST  
APPELLANT**

**PETER MURITHI KINYWA ::: 2ND  
APPELLANT**

**~VRS~**

**REPUBLIC:::RESPOND  
ENT**

**RULING**

[1] The application before me is one of bail pending appeal. The thresholds for bail pending appeal are now settled in **DOMINIC KARANJA V REPUBLIC**, and the major one is; where there is overwhelming chances of the appeal succeeding, there should be no justification to curtail the liberty of the appellant.

[2] Mr. Indimuli for the defence argues that the trial magistrate, neither evaluated the defence offered, nor assigned any reasons for disregarding the defence offered by the defence.

[3] The prosecution concedes the appeal has overwhelming chances of success. According to Mr. Kibelion, the defence offered which was consistent with the account of the incident narrated by PW5 was not considered by the trial court.

[4] Having considered all the arguments by counsels and perusal of the record, I am convinced the appeal has overwhelming chances of success. I therefore grant the Appellant bail pending appeal. He shall enter into a bond in the sum of Khs.300,000 with one surety of the like amount.

**Dated, signed and delivered in open court at Bungoma this 21st day of March, 2013.**

**F. GIKONYO  
JUDGE**