



REPUBLIC OF KENYA

High Court at Eldoret

Criminal Appeal 98 of 2012

GLADYS NJERI WAWERU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Application is by way of Notice of Motion and is dated the 25th June, 2012. The Appellant is seeking to be admitted into bail pending the hearing and determination of her appeal.

The Appellant was charged with the offence of Robbery with Violence contrary to Section 296 (2) of the Penal Code.

At the hearing of the application, Counsel for the Appellant submitted that the appeal had high chances of success as the Charge was defective and the evidence adduced was at variance with the Charge.

Counsel also submitted that the trial magistrate erred in finding the Appellant guilty of robbery with violence as the issues of “**Mens Rea**” and “**Actus Reus**” were not proved as against the Appellant

Counsel urged the court to grant the Appellant bail pending appeal and that the Appellant was willing to abide with the terms and conditions that would be set down by the court.

The application was not opposed by the State. Counsel concurred with the submissions of Counsel for the Appellant on the issue of participation and motive on the part of the Appellant. Counsel for the State conceded the application.

We have heard the submissions of both Counsel for the Appellant and Counsel for the State.

On the issue of “**Mens Rea**” and “**Actus Reus**” we are persuaded that the appeal has overwhelming chances of success.

The application is found to have merit and is hereby allowed.

The Appellant is hereby granted a bail/bond of Kshs 250,000/= together with one surety of a similar amount.

It is so ordered.

Dated and delivered at Eldoret this 11th day of October 2012.

F. AZANGALALA

JUDGE

A.MSHILA

JUDGE